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FROM THE

GENERAL LAND OFFICE,

SHOWING

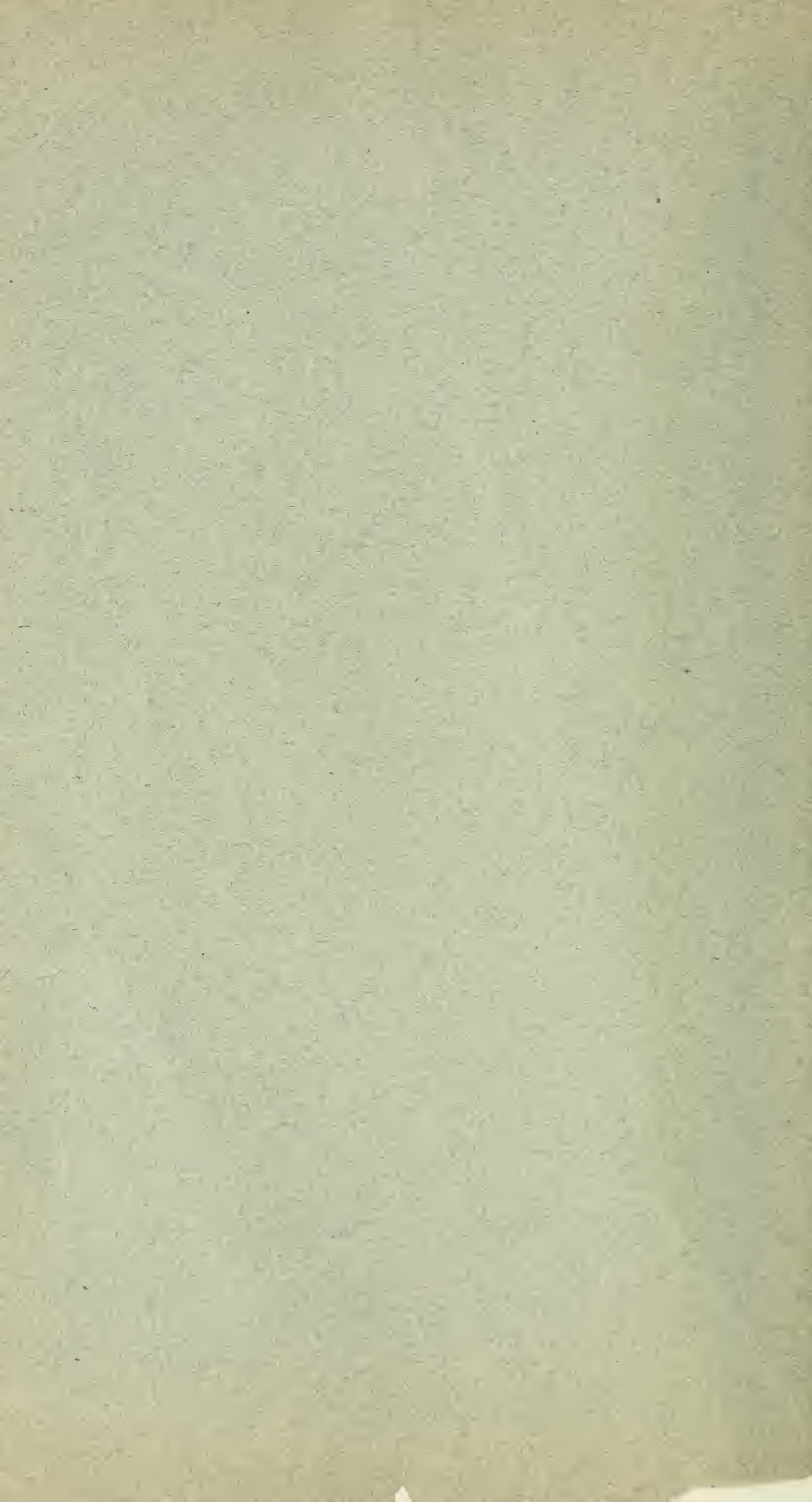
THE MANNER OF PROCEEDING

TO

OBTAIN TITLE TO PUBLIC LANDS UNDER THE PRE-EMPTION,
HOMESTEAD, TIMBER CULTURE, AND OTHER LAWS.

ISSUED OCTOBER 1, 1880.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
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INDEX.

GENERAL CIRCULAR OF OCTOBER 1, 1880.

	Page.
Actual settler has a preference right to enter, as against whom.....	16
Additional and new homestead entries within railroad limits.....	19-20
Additional homestead entries for soldiers and sailors.....	21-22
Adjoining farm homesteads.....	18-19
Appeals from decisions of Commissioner.....	39
Appeals from decisions of registers and receivers.....	38-39
Blank forms in cash entries.....	71-72
Blank forms in desert land entries.....	87-92
Blank forms in homestead entries.....	76-86
Blank forms in pre-emption entries.....	72-76
Board of equitable adjudication, how composed, &c.....	57-58
Blank forms in timber culture entries.....	86-87
Bounty land warrants.....	6-7
Cash entries at ordinary private sale.....	6
Claims of widows and minor orphan children for homesteads.....	21
Claimants who have become insane.....	11-15
Commissioner General Land Office, powers of, &c.....	42-58
Commissions allowed to registers and receivers.....	42-44
Commutation of homestead entries.....	17
Contests of homestead and timber culture entries.....	16-27
Credit for services during the late war.....	20
Criminal or civil suits not to be further maintained for or on account of certain timber trespasses.....	70
Declaratory statements, homestead.....	20-21
Declaratory statements, pre-emption.....	8-9
Desert land entries.....	29-31
Duties of Commissioner General Land Office.....	42
Duties of registers and receivers.....	40-41
Entries in Ohio, Indiana, and Illinois.....	24-25
Fees for reducing testimony to writing in contested cases.....	43
Fees in homestead entries.....	24
Fees in pre-emption.....	42
Final proof.....	13-15
Grasshopper extension laws.....	9-10
Heirs of deceased homestead parties.....	15
Homestead entries.....	12-24
Indian homesteads.....	23
Insanity of claimants; homestead and pre-emption.....	11-15
Land warrant locations.....	6-7
Land warrants are not issued for services in late war.....	7
Notices in contests, how served.....	16
Only States and Territories containing public lands.....	5

	Page.
Offenders, certain, allowed privilege of paying for the land.....	7-8
Perjury, how punished.....	58
Powers of Commissioner.....	42-58
Pre-emption filings and entries.....	8-12
Publication of intention to make final proof.....	13-14
Receiving illegal fees, penalty.....	43-44
Register's liability for giving false information, &c.....	44
Relinquishments of entries.....	15-16
Repayment of purchase money, fees, commissions, &c.....	36-38
Returns from district land officers.....	40-41
Revised Statutes in reference to homesteads.....	49
Revised Statutes in reference to pre-emptions.....	44
Saline lands.....	31
Soldiers' and sailors' homestead entries.....	20-23
Stone and timber lands.....	35-36
Timber culture entries.....	25-29
Town site entries.....	31-35
United States land offices.....	94

CIRCULAR.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., October 1, 1880.

The following is communicated in reference to the manner of acquiring title to the public lands under different laws of Congress:

The public lands referred to are included only within the States of Alabama, Arkansas, California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, Ohio, Oregon, Wisconsin, and the Territories of Arizona, Dakota, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming. These States and Territories, with the exception of Ohio, Indiana, and Illinois, are divided into land districts, in each of which there is a land office established by law, with a register and a receiver in attendance for the sale or other disposal of the public lands therein. See sections 2234 to 2247 of the Revised Statutes of the United States, copies hereto attached, No. 1; also list of land offices, on last page. Parties so desiring may obtain at these offices any proper information regarding vacant public lands.

Of agricultural public lands there are two classes: the one class at \$1.25 per acre, which is designated as *minimum*, and the other at \$2.50 per acre, or *double minimum*. The latter class consists of tracts embraced within the alternate sections of land reserved to the United States in acts of Congress making grants within prescribed limits of the lines of railroads, or other works of internal improvements, to aid in the construction thereof, such reserved sections being doubled in price. Congress, at its last session, passed an act, approved June 15, 1880 (copy attached, No. 16), the third section of which reduces to \$1.25 per acre any such lands then subject to entry (meaning, in this connection, ordinary cash entry of offered lands) which were put in market at the enhanced price prior to the 1st of January, 1861. Title may be acquired by purchase at public sale, or by ordinary "private entry," and in virtue of the pre-emption, homestead, timber culture, and other laws.

BY PURCHASE AT PUBLIC SALE.

This may be done where lands are "offered" at public auction to the highest bidder, either pursuant to proclamation by the President or public notice given in accordance with directions from the General Land Office.

BY "PRIVATE ENTRY" OR LOCATION..

The lands liable to disposal in this manner are those which have been offered at public sale, which were not then sold, and which have not since been reserved or otherwise withdrawn from market. In this class of offered and unreserved public lands the following steps may be taken to acquire title:

CASH PURCHASES.

The applicant will first present a written application to the register for the district in which the land desired is situated, describing the tract he wishes to purchase, giving its area (Form 4-001). Thereupon the register, if the tract is vacant, will so certify to the receiver, stating the price, and the applicant must then pay the amount of the purchase money.

The receiver will then issue his receipt for the money paid, in duplicate, giving to the purchaser a duplicate receipt (Form 4-131). The register will then issue his certificate of purchase (Form 4-189). At the close of the month the register and receiver will make returns of the sale to the General Land Office, from which, when the proceedings are found regular, a patent or complete title will be issued; and on surrender of the duplicate receipt such patent will be delivered, at the option of the patentee, either by the Commissioner at Washington or by the register at the district land office.

When patents are ready for delivery, they will in all cases be transmitted to the local office at which the location or entry was made, where they can be obtained by the party entitled thereto, upon surrender of the duplicate receipt, or certificate, as the case may be, unless the duplicate shall have been previously filed in this office with a request that the patent be delivered as requested by the person sending the same; and in no case will the patent be delivered either from this or the local office except upon receipt of such duplicate, or, in case of its loss from any cause, upon the filing in lieu of the same of an affidavit made by the present *bona fide* owner of the land, accounting for the loss of the same, and also showing ownership of the tracts or a portion thereof embraced in the patent.

In case the duplicate has been duly assigned by the locator, by a valid transfer in accordance with the laws governing transfers of realty in the State where the land is situated, such assignment will be recognized by this office and patent issued accordingly, provided the duplicate with the assignment thereon shall be filed in this office prior to the issuing of patent; but in no case will a patent be canceled for the purpose of making a reissue in the name of the assignee, where such assignment is not in possession of the office prior to date of the patent. Transfers of this kind must in all cases comply strictly with the law of the place, and if the assignor be a married man, and the statute requires the wife to join in the deed, it must be complied with, and in case of failure in this or other vital point the patent will follow strictly the recital of the certificate and issue only in the name of the original purchaser.

LOCATIONS WITH WARRANTS.

Application must be made as in cash cases, but must be accompanied by a warrant duly assigned as the consideration for the land; yet where the tract is \$2.50 per acre, the party, in addition to the surrendered warrant, must pay in *cash* \$1.25 per acre, as the warrant is in satisfaction of only so many acres at \$1.25 per acre, or furnish a warrant of such denomination as will, at the legal value of \$1.25 per acre, cover the rated price of the land. For example: A tract of 40 acres of land, held at \$2.50 per acre, can be paid for with a warrant calling for 40 acres and the payment of \$50 in cash, or by surrendering an eighty-acre warrant for the same—the 40 acres to be in full satisfaction for the said location; or a tract of 80 acres, rated at \$2.50 per acre, can be paid for by the surrender

of two eighty-acre warrants. If there is a small excess in the area of the tract over the quantity called for on the face of the warrant in any case, such excess may be paid for in money.

A duplicate certificate of location will then be furnished the party, to be held until the patent is delivered, as in cases of cash sales.

The following fees are chargeable by the land officers, and the several amounts must be *paid at the time of location* :

For a 40-acre warrant, 50 cents each to the register and receiver ; total.....	\$1 00
For a 60-acre warrant, 75 cents each to the register and receiver ; total.....	1 50
For an 80-acre warrant, \$1 each to the register and receiver ; total.....	2 00
For a 120-acre warrant, \$1.50 each to the register and receiver ; total.....	3 00
For a 160-acre warrant, \$2 each to the register and receiver ; total.....	4 00

The above has reference to certain warrants issued under the act of Congress of March 3, 1855, and previous acts, giving public land as a bounty for military services rendered prior to the passage of the acts in former wars of the republic. The bounties given by law for military services in the late civil war were not given in *land*, but in *money*. The only privileges granted to soldiers and sailors on account of military services rendered by them during the late civil war, in connection with the public lands, are provided for in sections 2304 to 2309 of the Revised Statutes (copies attached, No. 1), allowing homestead entries to be made by them on condition of residence on the entered tracts, with cultivation of the soil, for a prescribed period.

AGRICULTURAL COLLEGE SCRIP.

This scrip may be used—

First. In the location of land at "*private entry*," but when so used is only applicable to lands not mineral which may be subject to private entry at \$1.25 per acre, and is restricted to a technical "*quarter section*"—that is, land embraced by the quarter section lines indicated on the official plats of survey; or it may be located on a *part* of a "*quarter section*," where such part is taken as in full for a quarter; but it cannot be applied to different subdivisions to make an area equivalent to a quarter section. The manner of proceeding to acquire title with this class of paper is the same as in cash and warrant cases, the fees to be paid being the same as on warrants. The location of this scrip at private entry is restricted to *three sections in each township* of land, and *one million acres in any one State*.

Second. In payment of pre-emption claims, in the same manner and under the same rules and regulations as govern the application to pre-emptions of military land warrants; this, too, without regard to the limitation as to the quantity located in a township or in any State.

Third. In payment for homesteads commuted under section 2301 of the Revised Statutes of the United States (copy attached).

In addition to the foregoing in reference to purchases at public offering and purchases or locations at ordinary private entry, it is to be noted that the first section of the act of Congress of June 15, 1880 (copy attached, No. 16), having reference to cases of timber trespasses upon the public lands committed prior to March 1, 1879, extends to such trespassers the privilege of paying for the land upon which the offenses were so committed, at the price per acre for which, under the law in force at date of payment, the lands could be sold. This privilege of purchase is not confined to lands subject to private entry, but extends to any lands, not mineral, subject to disposal under general existing laws. This

section cannot be construed to permit a party who falls within the class of offenders named to enter the land if the valid claim of another person shall have attached prior to his application to purchase and be still subsisting.

Where lands are plainly subject to ordinary private entry, no special application to purchase, other than the usual application in cases of private entry, is required in order to enable the purchaser to avail himself of the benefits of this act. When lands are not plainly subject to ordinary private entry, and application to purchase the same shall be made with a view to securing the immunity contemplated by said first section, the district officers will require the same to be presented under oath of the applicant, giving a full and detailed statement of all the facts upon which he bases his claim to purchase. Such sworn statement should be corroborated by the affidavits of credible witnesses, and the officers will thereupon forward all the papers in a special letter to this office, allowing no entry until so directed by me. Entries so allowed will be included in the regular cash returns and accounts, the papers being issued as usual in cash entries, on which will be made a note referring to the act and the Commissioner's letter upon which the entry was allowed.

PRE-EMPTIONS ADMISSIBLE TO THE EXTENT OF ONE QUARTER SECTION, OR ONE HUNDRED AND SIXTY ACRES.

These are admitted under sections 2257 to 2288 of the Revised Statutes of the United States (copies of which sections are hereto attached), upon "offered" and "unoffered" lands, and upon any of the unsurveyed lands belonging to the United States to which the Indian title is extinguished, although in the case of unsurveyed lands no definitive proceedings can be had as to the completion of the title until after the surveys shall have been extended and officially returned to the district land office.

The pre-emption privilege is restricted to heads of families, widows, or single persons over the age of twenty-one, who are citizens of the United States, or who have declared their intention to become citizens, as required by the naturalization laws. This does not include Indians, except such as have ceased their tribal relations and been declared citizens by treaties or acts of Congress.

The right of pre-emption, formerly extended by act of Congress of March 3, 1853, for one quarter section, or 160 acres, at the price of \$2.50 per acre, to the alternate United States or reserved sections along the line of railroads is continued by the Revised Statutes, sections 2257, 2259, and 2279.

Section 2281 thereof protects the rights of settlers on sections along the line of railroads where settlements existed prior to withdrawal, and in such cases allows the land to be taken by the pre-emptors at \$1.25 per acre, but requires that they shall file the proper notices of their claims and make proof and payment as in other cases.

Where the tract is "*offered*" land, the party must file with the district land office his declaratory statement as to the fact of his settlement within thirty days from the date of said settlement (Form 4-534), and within one year from date of settlement must appear before the register and receiver and make proof of his actual residence on, and cultivation of, the tract, and secure the same by paying *cash*, or locating thereon military bounty land warrants or agricultural college scrip, according to law; or private claim scrip may now be used, under act of Congress of January 28, 1879 (copy attached, No. 10).

Where the tract has been surveyed and *not* offered at public sale, the claimant must file his declaratory statement within three months from

date of settlement (Form 4-535), and make proof and payment within thirty months after the expiration of the three months allowed for filing his declaratory notice, or, in other words, within thirty-three months from date of settlement (Forms 4-189, 4-536, and 4-535).

Where settlements are made on *unsurveyed* lands, settlers are required, within three months after the date of the receipt at the district land office of the approved plat of the township embracing their claims, to file their declaratory statement with the register of the proper land office (Form 4-535), and thereafter to make proof and payment for the tract within thirty months from the expiration of said three months (Forms 4-061, 4-375, and 4-374).

The pre-emption filings provided for as above may be relinquished by the claimants in writing before the register or receiver of the proper district land office, or the relinquishment may be executed by the claimant on the back of the declaratory statement-receipt, duly witnessed and acknowledged in the manner requisite under the laws of the State or Territory in which the land is situated for the transfer of real estate. After relinquishment filed in the district land office, the tract embraced in the filing will be held subject to the claim of any other settler, according to the first section, act of May 14, 1880 (copy attached, No. 14). If the receipt is lost, or from any other cause cannot be produced, the relinquishment must be accompanied by the affidavit of the party showing the fact.

When two or more settlers on unsurveyed land are found upon survey to be residing upon, or to have valuable improvements upon, the same smallest legal subdivision, they may make joint entry of such tract, and separate entries of the residue of their claims. This joint entry may be made in pursuance of contract between the parties, or without it. (Revised Statutes, section 2274.)

Should the settler in either of the aforesaid cases die before establishing his claim within the period limited by law, the title may be perfected by the executor, administrator, or one of the heirs, by making the requisite proof of settlement and paying for the land, the entry to be made in the name of "the heirs" of the deceased settler, and the patent will be issued accordingly. The legal representatives of the deceased pre-emptor are entitled to make the entry at any time within the period during which the pre-emptor would have been entitled to do so had he lived.

Section 2261 of the Revised Statutes prohibits the second filing of a declaratory statement by any pre-emptor qualified at the date of his first filing, where said filing has been in all respects legal. Where the first filing, however, is illegal from any cause, not the willful act of the party, he has the right to make a second and legal filing.

In the first section of the act of Congress of July 1, 1879, entitled "An act for the relief of settlers on the public lands in districts subject to grasshopper incursions," it is provided—

That it shall be lawful for homestead and pre-emption settlers on the public lands, and in all cases where pre-emptions are authorized by law, where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Commissioner of the General Land Office shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

And in its second section it is provided—

That the time for making final proof and payment by pre-emptors whose crops shall have been destroyed or injured as aforesaid, may, in the discretion of the Commis-

sioner of the General Land Office, be extended for one year after the expiration of the term of absence provided for in the first section of this act; and all the rights and privileges extended by this act to homestead and pre-emption settlers shall apply to and include the settlers under an act entitled "An act to encourage the growth of timber on western prairies," approved March third, eighteen hundred and seventy-three, and the acts amendatory thereof.

The proof required in the first section of said act may consist of the affidavit of the claimant, giving the particulars of the alleged destruction or serious injury of crops by grasshoppers, and the affidavits of two or more witnesses corroborative thereof, and should be submitted at time of making final proof through the register and receiver of the proper district land office. The particulars given should be such as to admit of a decision whether the absence was justified by law or not, and should of course indicate at what time the party left the land and when he resumed his settlement.

Written notice of intended absence, signed by the party, should be filed with the register and receiver when he leaves his claim, and be noted on the tract books; this for the protection of the claimant, and as notice to those who might otherwise make settlement and attempt to obtain title.

Claimants desiring the extension of time provided for in the second section of said act may apply therefor through the same officers, the application to be supported by the same character of proof. The affidavits required in cases under said act, as before indicated, may be made before any officer using a seal and authorized to administer oaths, or before the register or receiver of the district land office.

In view of recent sufferings from drought in the States of Kansas and Nebraska, Congress passed an act entitled "An act for the relief of certain homestead and pre-emption settlers in Kansas and Nebraska," approved June 4, 1880, which reads as follows, viz:

That it shall be lawful for homestead and pre-emption settlers on the public lands or pre-emption settlers upon Indian reservations in the States of Kansas and Nebraska west of the sixth principal meridian, where there has been a loss or failure of crops from unavoidable cause, in the year of 1879 or 1880, to leave and be absent from said lands until the first day of October, 1881, under such rules and regulations as to proof and notice as the Commissioner of the General Land Office may prescribe; and during said absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred.

SEC. 2. That the time for making final proof and payment by such pre-emptors is hereby extended for one year after the expiration of the term of absence provided for in the first section of this act; but in cases where the purchase money is by law payable in installments, the first unpaid installment shall be held not to be due until one year after the expiration of the leave of absence aforesaid.

It will be seen that the provisions of this act have reference only to such lands as lie *west* of the sixth principal meridian in the States of Kansas and Nebraska. Lands in other States or Territories are not referred to; nor are those lands in Kansas and Nebraska which lie *east* of the sixth principal meridian. The lands to which its provisions apply are included in the land districts of Wichita, Salina, Concordia, Larned, Kirwin, and Wa-Keeney, all the districts except Topeka and Independence, in Kansas, and Niobrara, Norfolk, Lincoln, Grand Island, North Platte, Bloomington, and Beatrice, all the districts in Nebraska.

Under the provisions of this act, homestead and pre-emption settlers on the public lands and pre-emption settlers upon Indian reservations within the section of country indicated, who have suffered from loss or failure of crops from unavoidable causes in the year 1879 or 1880, may leave and be absent from their lands until the 1st day of October, 1881, without their right to the same being impaired thereby. The pre-emption settlers entitled to its benefits are allowed also an extension of time

for making final proof and payment for one year from the 1st of October, 1881; and where the purchase money is by law payable in installments, this act provides that the first unpaid installment shall be held not to be due until one year after the expiration of such leave of absence.

This right of absence is not available in any case in which there has not been "a loss or failure of crops from unavoidable cause in the year 1879 or 1880"; hence, when a settler not actually entitled to the benefits of this act absents himself from his claim, it will be liable to be regarded as an abandonment, and adverse claims may be recognized.

As in cases arising under the grasshopper act of July 1, 1879, before mentioned, the settler desiring to leave his claim under this act should file with the register and receiver of the proper district land office a written notice of his intention to do so, bearing his signature, and embracing a statement that he has sustained a loss or failure of his crops in 1879 or 1880, this being necessary for his own protection, and as notice due parties who might otherwise initiate claims to the land.

At date of final proof by any party who shall have availed himself of this act he must show by satisfactory proof the period of absence and specific facts making appear the loss or failure of crops from unavoidable cause in 1879 or 1880, on account of which he was entitled to its benefits. The proof should consist of the party's own testimony, corroborated by that of two or more disinterested witnesses.

After a party shall have filed the notice of intended absence under this act, no contest involving his right to the land can be instituted prior to the expiration of the legal term of absence to which he is entitled. If the party should be fraudulently absent, it will be a matter of investigation in the regular manner thereafter. All notices filed will be duly entered on the records of the district office, and reported with the final proof made in the case.

Provision is made by act of Congress of June 8, 1880 (copy attached, No. 15), whereby the rights of pre-emption claimants becoming insane may be proved up, and their claims perfected by any person duly authorized to act for them during their disability.

1. Such claims must have been initiated in full compliance with law, by persons who were citizens or had declared their intention to become citizens, and were in other respects duly qualified.

2. The party for whose benefit the act shall be invoked must have become insane subsequent to the initiation of his claim, and the act will not be construed to cure a failure to comply with the law when such failure occurred prior to such insanity.

3. Claimant must have complied with the law up to the time of becoming insane, and proof of compliance will be required to cover only the period prior to such insanity.

4. The final proof must be made by a party whose authority to act for the insane person during such disability shall be duly certified under seal of the proper probate court.

Before final proof is made on pre-emption claims and entries allowed, it is necessary that public notice be given under the act of Congress of March 3, 1879, as pointed out with regard to homestead claims under the next succeeding title; and parties interested in the issue of pre-emption and other patents are further advised that, in a decision of the Hon. Assistant Secretary of the Interior, of July 27, 1880, in the case of Horace Whitaker *ex rel.* Nathan H. Garretson *v.* The Southern Pacific Railroad Company and Wesley M. Slater, the following instructions are promulgated for the government of this office:

* * * I think it is not a correct practice to issue a pre-emption patent to an assignee in any case. The law as to the issuance of patents is well stated in the case of *McGarrahan v. New Idria Co.* (49 Cal., 335) thus: "Neither the President, however, nor any officer, has other power * * * to sign or to cause the seal of the Land Office to be affixed to patents than such as is conferred by statute of the United States." (See also *Stoddard v. Chambers*, 2 How., 318; *McGarrahan v. Mining Co.*, *supra*; sections 450 and 453 of the Revised Statutes; and act of June 19, 1878, 20 Stat., 183.) I find nothing in the pre-emption law requiring the issuance of patents to assignees of pre-emptors, and the labor of examining into assignments ought not to be assumed by your office, to say nothing of the evils that may result from issuing patents to assignees in pre-emption cases. The same doctrine applies to all cases of the issuance of patents except where the statutes expressly recognize the right of an assignee to take patent in his own name.

LAWS EXTENDING THE HOMESTEAD PRIVILEGE.

I. The laws extending the homestead privilege, embraced in sections 2289 to 2312 of the Revised Statutes (copies attached), give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on *surveyed* lands. This right was limited by section 2289 of the Revised Statutes, as the maximum quantity, to 160 acres of the class of ordinary public lands held by law at \$1.25 per acre, when disposed of to cash purchasers, or 80 acres of the class of lands embraced in the alternate sections, along the lines of railroads or other works of internal improvement, reserved to the United States in acts of Congress making grants of land in aid of the construction of such works, and the price thereof increased to \$2.50 per acre. By act of Congress of March 3, 1879 (copy attached, No. 11), it was enacted that from and after its passage "the *even* sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler," thus doing away in this class of entries with the distinction between ordinary minimum and double minimum lands, or lands held at \$1.25 per acre and lands held at \$2.50 per acre, which had existed under section 2289 of the Revised Statutes of the United States, so far as the double minimum lands may be found in *even* sections within the limits of land grants for railroads or military roads. These provisions did not extend so as to embrace any double minimum lands in *odd* numbered sections, or in the limits of grants for any other description of public works. By act of July 1, 1879 (copy attached, No. 12), the same provisions were extended to the *odd* sections in the States of Missouri and Arkansas, where the *odd* sections were reserved to the United States, the price of the lands therein enhanced, and the *even* sections granted for the purposes of improvement. Both acts were inoperative in any case where the *even* sections were granted, the *odd* being reserved, and not within the States of Missouri and Arkansas, as in Alabama and Mississippi; but the double minimum lands in the two last mentioned States having been brought into market at the enhanced price prior to the 1st January, 1861, are now reduced to \$1.25 per acre under the third section of the act of June 15, 1880 (copy attached, No. 16).

To obtain a homestead the party must, in connection with his application (Form 4-007), make an affidavit (Form 4-063), before the register or receiver, that he is over the age of twenty-one or the head of a family; that he is a citizen of the United States, or has declared his intention to become such; and that the entry is made for his exclusive use and benefit, and for actual settlement and cultivation; and must pay the

legal fee and that part of the commissions which is payable when the entry is made, as given in tables on page 24.

Where the applicant has made actual settlement on the land he desires to enter, but is prevented by reason of bodily infirmity, distance, or other good cause, from personal attendance at the district land office, the affidavit may be made before the clerk of the court for the county within which the land is situated, under section 2294 of the Revised Statutes.

On compliance by the party with the foregoing requirements, the receiver will issue his receipt for the fee and that part of the commissions paid (Form 4-137), a duplicate of which he will deliver to the party. The matter will then be entered on the records of the district office and reported to the General Land Office.

II. An inceptive right is vested in the settler by such proceedings, and upon faithful observance of the law in regard to settlement and cultivation for the continuous term of five years, and at the expiration of that time, or within two years thereafter, upon proper proof to the satisfaction of the land officers (Forms 4-070, 4-369, and 4-370), and payment to the receiver of that part of the commissions remaining to be paid, as given in tables on page 24, the receiver issuing his receipt therefor, the register will issue his certificate (Forms 4-140 and 4-196), and make proper returns to this office as the basis of a patent or complete title for the homestead. In regard to the requirement of continuous residence and cultivation in such cases, reference is made to the exceptions provided for in the act of Congress of July 1, 1879, as given above, with respect to grasshopper ravages, and within certain sections of Kansas and Nebraska provided for by act of June 4, 1880, also given above, in cases of loss or failure of crops from unavoidable causes, these acts being applicable to homestead claims in like manner as to pre-emptions. And an inceptive right to a homestead may now be acquired, and the period of continuous residence and cultivation begin to run, prior to the date of formal entry at the district land office, by the party making actual settlement on the tract desired, provided the entry at the district office is made within the prescribed period thereafter as in pre-emptions. The third section of the act of May 14, 1880 (copy attached, No. 14), places homestead settlers on public lands on the same footing with pre-emption settlers under existing laws. This section protects the claim of an actual settler upon unsurveyed land not yet open to entry at the district office, provided he shall make homestead entry of the land within three months from the filing of the township plat of survey in the district land office, the same as the pre-emptor is now protected by filing his declaratory statement within the same period; and if the homestead settler shall fully comply with the law as to continuous residence and cultivation, his settlement defeats all claims intervening between its date and the date of filing his homestead application. In making final proof, his five years of residence and cultivation will commence from date of actual settlement.

NOTE.—The law is specific in requiring final proof to be made within *two* years after the expiration of the five years from day of entry.

Under the act of Congress of March 3, 1879 (copy attached, No. 13), any settler desiring to make final proof must first file with the register of the proper land office a written notice of his intention to do so. Such notice must describe the land claimed, and the claimant must give the names and residences of the witnesses by whom the necessary facts as to settlement, residence, cultivation, &c., are to be established. (See Form 4-348.)

The filing of such notice must be accompanied by a deposit of sufficient money to pay the cost of publishing the notice to be given by the register.

Upon the filing of the notice by the applicant, the register shall publish a notice of such application once each week for a period of thirty days, in a newspaper which he shall designate, by an order written on said application, as published nearest the land described in the application, and he shall also post said notice in some conspicuous place in his office for the same period. A compliance with the law will require the notice to be published weekly five times, because four weekly publications would not cover a period of thirty days.

The notice to be given by the register must state that application to make final proof has been filed; the name of the applicant; the kind of entry, whether homestead or pre-emption; a description of the land, and the names and residences of the witnesses as stated in the application. (See Form 4-347.)

To save expense, the register may embrace two or more cases in one publication, when it can be done consistently with the legal requirements of publication, in a newspaper published nearest the land, as per attached Form 4-347½.

When proof is filed that notice has been given in the manner and for the time required by said act of Congress, the applicant will be entitled to make final proof, as provided by law.

The proof that requisite notice has been given will be the certificate of the register that the notice of the application (a copy of which should be annexed to the certificate) was posted by him in a conspicuous place in his office for a period of thirty days (Form 4-227), and the affidavit of the publisher or foreman of the newspaper that the notice (a copy of which notice must be annexed to the affidavit) was published in said newspaper once each week for five successive weeks.

The proof of the publication and posting of the notice must be filed and preserved by the register, to be forwarded to this office with the final papers when issued.

In making final proof the homestead party may appear in person at the district land office with his witnesses, and there make the affidavit and proof required in support of his claim, or he may proceed under the act of March 3, 1877 (copy attached, No. 2). This prescribes that the party desiring to avail himself thereof must appear with his witnesses before the judge of a court of record of the county and State, or district and Territory, in which the land is situated, and there make the final proof required by law, according to the forms prescribed, Nos. 4-070, 4-369, and 4-370, which proof, duly authenticated by the court seal, is required to be transmitted by the judge or the clerk of the court to the register and receiver, together with the fee and charges allowed by law. See 3d, 10th, and 12th subdivisions of section 2238 of the Revised Statutes of the United States (copy attached).

The judge being absent in any case, the proof may be made before the clerk of the proper court. The fact of the absence of the judge must be certified in the papers by the clerk acting in his place.

If the land in any case is situated in an unorganized county, the statute provides that the party may proceed to make the proof, in the manner indicated, in any adjacent county in the State or Territory. The fact that the county in which the land lies is unorganized, and that the county in which the proof is made is adjacent thereto, must be certified by the officer.

In any case where the final proof shall be transmitted to the register

and receiver, as contemplated in this act, and the full amount of money due shall be paid, they will carefully examine the proof, and, if no objection appears, proceed to issue the receipt and certificate in the case, and make proper returns to this office as the basis of a patent or complete title for the homestead, pursuant to existing laws. If any objection appears they will promptly notify the party and advise him of his rights in the matter.

Where a homestead settler dies before the consummation of his claim, the widow, or in case of her death the heirs, may continue settlement or cultivation, and obtain title upon requisite proof at the proper time. If the widow proves up, title passes to her; if she dies before proving up and the heirs make the proof, the title will vest in them.

Where both parents die, leaving infant children, the homestead may be sold for cash for the benefit of such children, and the purchaser will receive title from the United States, or the patent will issue to the infants on proof of settlement or cultivation for the prescribed period.

Under the act of Congress of June 8, 1880 (copy attached, No. 15), parties whose homestead entries were regularly made according to law, and who afterwards became insane, may be represented for making final proof and perfecting their entries by any person whose authority to act for them during their disability shall be duly certified under seal of the proper probate court. This act will not be construed to cure failure to comply with the law where the failure occurred prior to the insanity of the claimant. Final proof will not be received until the expiration of the five years, but proof of residence and cultivation will be required to cover only the period prior to such insanity. If a claimant becomes insane *after* expiration of the period of residence, &c., the act will be construed to permit his guardian to act for him within the time in which he might have made final entry himself. The proof must show the regularity of the entry, and therefore that the claimant was either a citizen or had filed his declaration to become one according to the naturalization laws at date of entry, but further proof will not be required as to citizenship.

The sale of a homestead claim by the settler to another party before completion of title is not recognized by this office, and vests no title or equities in the purchaser. In making final proof, the settler is by law required to swear that no part of the land has been alienated, except as provided in section 2288 of the Revised Statutes, for church, cemetery, or school purposes, or the right of way of railroads. So far, however, as regards homestead entries made prior to the 15th June, 1880, for lands properly subject to such entry, the second section of the act of Congress of that date (copy attached, No. 16) provides that the persons to whom the rights of those having so entered for homesteads may have been attempted to be transferred by *bona fide* instruments in writing may entitle themselves to said lands by paying the government price therefor less the fee and commissions paid on the entries. Instructions relative to such cases will be found in place below.

III. As the law allows but one homestead privilege, a settler relinquishing or abandoning his claim cannot thereafter make a second entry; although where an entry is canceled as invalid for some reason other than abandonment, and not the willful act of the party, he is not thereby debarred from entering again, if in other respects entitled, and may have the fee and commissions paid on the canceled entry refunded on proper application under the act of June 16, 1880; or, if he so elect, he may, by special instructions from this office, be allowed credit for such fee and commissions on a new homestead entry.

By the first section of the act of May 14, 1880 (copy attached, No. 14), it is enacted "that when a pre-emption, homestead, or timber culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry, without further action on the part of the Commissioner of the General Land Office." The district land officers are instructed not to accept or act upon any relinquishment, unless made before them, which has not been duly subscribed by the claimant on the back of his duplicate receipt, and acknowledged, witnessed, and executed in the manner requisite under the laws of the State or Territory in which the land is situated for the valid transfer of real estate. In case of the loss of the duplicate receipt an affidavit of such loss must accompany the written relinquishment.

Immediately upon a relinquishment, duly executed as above, being received at their office, the register will note on the relinquishment, over his signature, the day and hour of its receipt, will write the words "Canceled by relinquishment" (giving date) opposite the record of the entry in the tract book, the register of entries, and the register of receipts, and draw a line over the number of the entry on the township plat.

On Monday of each week they are directed to transmit to this office all the relinquishments which have been accepted by them during the preceding week. When the relinquishment shall have been received and noted as above, they will hold the land embraced in the relinquished entry as subject to settlement or entry by the first legal claimant; the intent of said section, as understood by me, being only to prevent the delay formerly resulting from awaiting action on such relinquishments by this office.

IV. Where application is made to contest the validity of a homestead entry on the ground of abandonment, the party must file his affidavit with the district land officers, setting forth the allegations on which his application is founded describing the tract and giving the name of the settler. Upon this the officers will set apart a day for hearing, giving all the parties in interest due notice of the time and place of trial.

In cases of inability to make personal service of the notice, and when it becomes necessary to serve it by publication, the act of Congress of June 3, 1878, directs that the same shall "be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land." After the trial, the land officers will transmit the testimony, with their joint report, for the action of this office, according to Rules of Practice approved October 9, 1878, given in separate circular.

The contestant must defray the expenses incident to such a contest. Under the second section of the act of Congress of May 14, 1880, before referred to, if he succeeds in the contest, and procures the cancellation of the entry, he will be notified thereof, and for a period of thirty days from such notice will be allowed a preference right to institute a claim to the land over any other person who may desire to do so.

V. According to the principles laid down in the decisions rendered by the United States Supreme Court in the case of *Atherton vs. Fowler*, 6 Otto, 513, and the case of *Hosmer vs. Wallace*, 7 Otto, 575, the preference right of a *bona fide* actual settler will be recognized as against any other party seeking title to the tract covered by his settlement, under the pre-emption, homestead, or timber culture laws.

VI. When an individual has made settlement on a tract and filed his

preemption declaration therefor, he may change his filing into a homestead, if he continues in good faith to comply with the pre-emption laws until the change is effected; and by an act of Congress of May 27, 1878 (copy attached, No. 3), the time during which the party has resided upon and claimed the land as a pre-emptor will be credited upon the period of residence and cultivation required under the homestead laws. In so doing he is required in his first homestead affidavit to set forth the fact of a previous pre-emption filing, the time of actual residence thereunder, and the intention to claim the benefit of such time as provided for in the act. In making final proof on his homestead entry he is required, in addition to the usual affidavit and proof, to make the prescribed "pre-emption homestead affidavit" (Form 4-071).

VII. If the homestead settler does not wish to remain five years on his tract, the law permits him to pay for it with cash or warrants or agricultural college scrip, upon making proof of settlement and cultivation for a period of not less than six months from the date of entry to the time of payment; or payment may now be made with private claim scrip under the act of January 28, 1879 (copy attached, No. 10).

This proof of actual settlement and cultivation must be the affidavit of the party (Form 4-069) made before the district officers, in addition to the testimony usual in making final homestead proof (Forms 4-369 and 4-370), or the party may, under the act of June 9, 1880, make the required affidavit before the clerk of any court of record of the county and State or district and Territory in which the land is situated; or if in any unorganized county, he may make such affidavit in a similar manner in any adjacent county in the State or Territory.

- With respect to the class of homestead entries made prior to the 15th June, 1880, the act of Congress that day approved (copy attached, No. 16) provides another method of acquiring title to the land by purchase. Under section 2, duly qualified persons who, prior to June 15, 1880, entered, under any of the homestead laws, lands properly subject to such entry, are permitted to obtain title by paying the government price, less the fee and commissions paid thereon.

In allowing entries of this class, the district officers will require proof that the party was twenty-one years of age, or the head of a family, was a citizen or had declared his intention to become a citizen of the United States, and was in other respects entitled to make the entry.

When homestead entries made prior to June 15, 1880, have been attempted to be transferred by *bona fide* instrument in writing, the persons to whom such transfers were made are likewise authorized to obtain title by like payments and with like deductions of fees and commissions.

In permitting entries by transferees, they will first ascertain whether the original homestead entry was a valid entry under the homestead laws. They will then require the instrument in writing by which it was sought to transfer such homestead right to be filed, together with the best evidence attainable of the *bona fide* character of the transfer, including the affidavit of the party who seeks to purchase. They will also require satisfactory proof that the attempted transfer was made prior to June 15, 1880. In cases of doubt as to the propriety of allowing the application to purchase, they should refer all the papers to this office, with a full statement of facts and their opinion.

No entry will be allowed under the second section when the original homestead entry was not a valid entry; nor when an entry under the homestead laws shall have been made on the same land subsequent to the original entry; nor if the land was embraced in a prior valid entry

at the date of such original homestead entry; nor where adverse legal rights of any character exist at the date of the application to purchase.

Applications to purchase under said second section will be made on Form 4-001, as in case of ordinary cash entry, and must be accompanied by the receiver's duplicate homestead receipt, or, if that has been lost or destroyed, by an affidavit setting forth such fact, and giving the register's and receiver's number and date of the original homestead entry. It must also be stated in the application that the same is made under the second section of the act of June 15, 1880. Where the duplicate receipt has been lost or destroyed, and the application to purchase is made by the original homestead party, the applicant must make oath that he has not transferred nor attempted to transfer his homestead rights under said entry, nor assigned his right to receive the repayment of the fees, commissions, and excess payments paid thereon. The register will certify to the receiver the amount to be allowed as credit for fees and commissions already paid, the applicant first making oath that said fees and commissions have not been repaid, and that no application for such repayment has been made.

Entries under said second section will receive current register's and receiver's numbers in the regular cash series, and will be returned in the same manner as in other cases of cash entry, referring, however, in each instance, on the cash abstracts, certificates, and receipts, to the date of the act authorizing the entry, the register's and receiver's number of the original homestead application, and the amount allowed as credit for fees and commissions, as follows: "Act June 15, 1880. Original homestead entry No. —. Credit for fees and commissions, \$——."

Final homestead proof not being required in these cases, no advertisement or notice of intention to make final proof is necessary, and no final homestead fees are to be paid or collected.

Warrants and scrip, made receivable by law for lands subject to sale at private entry, or in commutation of homestead or pre-emption rights, and certificates of deposit on account of surveys, will be deemed receivable for lands purchased under the act of June 15, 1880.

The existing rule must, however, be observed, that where the value of warrants or scrip exceeds that of the land entered therewith, no repayment is authorized, but the warrant or scrip applied must be fully surrendered. In such case there would be no claim for repayment on account of the fee and commissions paid on the original homestead entry.

VIII. There is a class of homesteads designated as "adjoining farm homesteads." In these cases the law allows an applicant *owning* and *residing* on an *original* farm to enter other land lying contiguous thereto, which shall not, with such farm, exceed in the aggregate 160 acres. Thus, for example, a party owning or occupying 80 *acres* may enter 80 additional, without regard to price, whether held at \$1.25 or \$2.50 per acre; or, if owning 40 acres, he may enter 120 acres additional of land held at \$1.25 per acre, or of land held at \$2.50 per acre, where 160 acres is now the maximum quantity of double minimum land subject to homestead entry, but cannot exceed the maximum of 80 acres where the land proposed to be entered is held at \$2.50 per acre, and where 80 acres is still the legal maximum in reference to that class of lands, under section 2289 of the Revised Statutes as modified by the acts of Congress of March 3, 1879, July 1, 1879, and June 15, 1880, before mentioned.

In applying for an entry of this class, the party must make affidavit (Form 4-066) describing the tract which he owns and upon which he resides as his original farm. In making final proof it is not required

that he should prove actual residence on the separate tract entered ; but if he does not, it must appear from the proof adduced (Forms 4-369, 4-370, and 4-067, the two former to be modified to suit the circumstances of the case) that he has continued for the period required by law to reside upon and cultivate the original farm tract, making use of the entered tract as a part of the homestead.

IX. The act of March 3, 1879 (copy attached, No. 11), in addition to its provisions already referred to, provides, *first*, that "any person who has under existing laws taken a homestead on any even section within the limits of any railroad or military road land grant, and who by existing laws shall have been restricted to 80 acres, may enter under the homestead laws an additional 80 acres adjoining the land embraced in his original entry, if such additional land be subject to entry," without payment of fees and commissions, and that "the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional entry, and shall be deducted from the five years' residence required by law," with the proviso, however, that in no case shall patent issue "until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land" embraced in his additional entry "at least one year." The act of July 1, 1879, is similar in effect.

Upon any party proposing to enter an additional tract under these provisions, the register and receiver will require him to submit proof which shall set forth the particulars of his existing entry and of his compliance with the legal requirements regarding the same, according to forms provided for use in making final proof, 4-369 and 4-370, as also to swear that he did not serve in the Army or Navy of the United States during the late civil war for ninety days or more, as the class of persons who thus served were not restricted to eighty acres under previously existing laws, and, therefore, are not entitled to the benefits of the acts referred to, and to make homestead application and affidavit according to attached Forms 4-018 and 4-086. The required proof is found necessary to ascertain the *status* of the original entry at the date of application for the benefit of the said acts, and also the credit for residence and cultivation to which the party who made the same may be entitled, according to their provisions, in perfecting his title under the additional or new entry to be allowed, without waiting the arrival of the time when final proof on the latter is to be made. With reference, however, to cases in which final proof on the original entries has been made and the certificates issued, the requirement of proof as herein directed may be omitted, and in lieu thereof a reference made in reporting the case to the certificate issued, giving its number and date, so that it may be identified on the records of this office.

These requirements having been complied with, the register and receiver will then, if they find his original entry to be *intact* on their records, whether patented or not, and if no objection appears in any respect, allow the entry applied for, note the same on their records, giving it the proper number in the regular homestead series, and report it with their monthly homestead returns, indicating its character as an additional entry under said act on the margin of their monthly abstracts, with a reference to the original entry by its number, and the description of the land. The money columns in the abstracts will of course be left blank, since there will be no fees and commissions paid.

In this class of entries the party, if still resident on the original entry

tract, will not be required to remove therefrom to the additional entry tract in order to make a new residence on the latter, as the two forming one body of land, residence on either will be regarded as satisfying the legal requirement; but in making final proof on the additional entry the party must show such residence, with occupancy and cultivation of the tract taken as additional under said act, for five years from the date of entry thereof, less the time to be deducted on account of residence and cultivation on the original entry, which shall not exceed four years in any case.

Second. The acts further provide that should the person so elect he may, instead of making an additional entry, "surrender his existing entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made," with the same provisions, as regards fees and commissions not being required, and requiring settlement and cultivation, occupation, and residence, as have been already stated with regard to additional entries. In case of any party electing to surrender his entry under this act, the register and receiver will receive his relinquishment, which shall specify for what purpose made, and be accompanied by the duplicate receipt issued for the relinquished entry, or by a statement under oath showing a good reason for its absence, report the case in a special letter to this office, and await instructions before proceeding further in the matter. Relinquishments may be made in the same manner hereinbefore provided for.

Provisions for the benefit of soldiers and sailors of the late war, their widows and minor orphan children.—Sections 2304, 2305, 2306, 2307, 2308, and 2309 of the Revised Statutes, for the benefit of soldiers and sailors, their widows, and minor orphan children, provide—

1st. In section 2304, that every soldier and officer in the Army, and every seaman, marine, and officer of the Navy, who served for not less than ninety days in the Army or Navy of the United States, "during the recent rebellion," and who was honorably discharged, and has remained loyal to the government, may enter, under the provisions of the homestead law, 160 acres of the public land, to be taken, if desired, from the class of double minimum lands.

2d. In section 2305, that the time of his service, or the whole term of his enlistment if the party was discharged on account of wounds or disability incurred in the line of duty, shall be deducted from the period of five years, during which, as per section 2291, the claimant must, to perfect title, reside upon and cultivate the entered tract, but with the proviso that the party shall, in every case, reside upon, improve, and cultivate his homestead for a period of at least one year after he shall have commenced his improvements.

3d. That any person entitled to the benefits of section 2304, who had, prior to the 22d of June, 1874, made a homestead entry of less than 160 acres, may enter an additional quantity of land sufficient to make, with the previous entry, 160 acres.

4th. That the widow, if unmarried, or in case of her death or marriage, then the minor orphan children, of a person who would be entitled to the benefits of section 2304, may enter land under its provisions, with the additional privilege accorded, that if the person died during his term of enlistment, the widow or minor children shall have the benefit of the whole term of enlistment.

5th. That any person entitled to the benefit of section 2304 may file

his claim for a tract of land through an agent, and shall have six months thereafter within which to make his entry and commence his settlement and improvement upon the land.

The following is the course of proceedings for parties to avail themselves of the benefits of these sections of the Revised Statutes in making homestead entries:

1st. On the party producing the proper proof of his right to do so, immediate entry of the tract desired may be made; but if the party so elect, he may file a declaration (Form 4-273) to the effect that he claims a specified tract of land as his homestead, and that he takes it for actual settlement and cultivation. The register and receiver will number the declarations so filed in a separate series, according to the order of filing, enter them on their records, and with their monthly returns forward an abstract, to embrace all declarations of this class filed with them during the month. Thereafter, at any time within six months from the date of filing, the party may come forward, make his entry of the land (Forms of application and affidavits, 4-015 and 4-065) and commence his settlement and improvement. Should the party present his declaration through an agent as authorized by section 2509, said agent must produce a duly executed power of attorney from the principal desiring to make the entry, who will be bound by the selection his agent may make the same as though made by himself. Where the party has failed to make entry within six months from the date of filing, he is not thereby debarred from making entry of the tract filed for, unless some adverse right has intervened; and if so he may enter some other tract that is still vacant.

2d. The claims of widows and minor orphan children may be initiated by declaration, as above. Minor orphan children can act only by their duly appointed guardians, who must file certified copies of the powers of guardianship, which must be transmitted to this office by the registers and receivers with their abstracts of declarations. The law does not require, as a condition to enjoying its benefits, that the party should first file a declaratory statement, and, as before stated, immediate entry may be made.

3d. Where a party entitled desires to make an additional entry of a quantity which, with his original entry, shall not exceed one hundred and sixty acres, it is required that a full recital of military service be presented to this office, with due proof of the identity of the party making the claim, and with proper reference to his original homestead entry, giving the name of the district office, date and number of entry, and description of the land. In addition, a detailed statement, under oath, must be filed by the party in interest, setting forth the facts respecting his right to make the entry, and containing his declaration that he has not in any manner exercised his right, either by previous entry or application, or by sale, transfer, or power of attorney, but that the same remains in him unimpaired. He must also declare, under oath, that he has made full compliance with the homestead law in the matter of residence upon, cultivation and improvement of, his original homestead entry, and should further recite whether or not he has proved up his claim and received a patent of the land.

When these papers are filed and examined, they will, if found satisfactory, be returned with a certificate attached recognizing the right of the party to make additional entry under the law; and when presented with a proper application at any district land office, either by the party entitled or his agent or attorney, they will be accepted by the register

and receiver, and forwarded with the entry papers to this office in the usual manner.

The fee for examination and certificate, under the seal of the office, will be \$1, which must in all cases accompany the papers presented for approval.

Where the party's first entry has been consummated, the register and receiver will require him to make application in the form prescribed (No. 4-008), and to pay the same fee and commissions as in cases of original entry; the receiver will issue his receipt for the money paid, and these papers will receive the current date and the proper numbers in their homestead series. Then, to complete the transaction—it being an object, for the convenience of business, that the additional entry papers, and the final papers therefor, in such cases, shall be kept separate and distinct—the party will make payment of the usual final commissions on the entered tract, for which the receiver will issue his receipt; the register will thereupon issue his final certificate for the additional tract (Form 4-197), the receipt and certificate to bear their proper numbers in the final homestead series, likewise a reference to the original entry and to the final certificate thereon by their number, and also by their district where the party's first entry shall have been made in a different district.

In case the party has not made proof on his original homestead entry when he applies for additional land, he will be allowed to make the additional entry on proper application, as above stated, and paying the usual fee and commissions, for which the receiver will issue his receipt, the papers to receive their proper numbers in the homestead series, with a reference thereon to the original entry. Thereafter, when the party shall make final proof on the original entry, he will be required to pay the final commissions on both entries, when a final receipt will be issued for the money, and thereupon a final certificate issued to call both for the tract in the original entry and the additional tract. On these papers the register and receiver will make a reference to the original and the additional entry, and on them one patent will issue for both; yet where it happens that the original entry and the additional entry are made in different land districts, this rule must be departed from so far as regards the issuing of one final certificate and receipt for both.

The following proof will be required of parties applying for the benefits of sections 2304, 2305, and 2307, in addition to the prescribed affidavit of the applicant:

1st. Certified copy of certificate of discharge, showing when the party enlisted and when he was discharged; or the affidavit of two respectable, disinterested witnesses corroborative of the allegations contained in the prescribed affidavit (Form 4-065) on these points, or, if neither can be procured, the party's affidavit to that effect.

2d. In case of widows, the prescribed evidence of military service of the husband, as above, with affidavit of widowhood, giving date of the husband's death.

3d. In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or marriage of the mother. Evidence of death may be the testimony of two witnesses, or certificate of a physician duly attested. Evidence of marriage may be certified copy of marriage certificate, or of the record of same, or testimony of two witnesses to the marriage ceremony.

The register and receiver will be allowed to charge one dollar each for receiving and filing the initiatory declaration of the parties in cases where such declarations are filed. This fee the receiver will account for

in the usual manner, indicating the same in his account as fees for "homestead declarations," which will be charged against the maximum of \$3,000 now allowed by law. In the States and Territories for which 50 per centum additional is allowed by the twelfth subdivision of section 2238 of the Revised Statutes, the additional allowance will apply to the fee herein named, viz: California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana.

Provisions for the benefit of Indians.—The fifteenth and sixteenth sections of the act of March 3, 1875 (copy attached, No. 9), extends the benefits of the homestead act of May 20, 1862, and the acts amendatory thereof (now embodied in sections 2290, 2291, 2292, and 2295 to 2302, inclusive, of the Revised Statutes) to any Indian, born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, with the exception that the provisions of the eighth section of said act of 1862 (section 2301 of the Revised Statutes) shall not be held to apply to entries made thereunder, and with the proviso that the title to lands acquired by any Indian by virtue thereof shall not be subject to alienation or incumbrance, either by voluntary conveyance, or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor.

An Indian desiring to enter public land under this act must make application to the register and receiver of the proper district land office; also an affidavit setting forth the fact of his Indian character; that he was born in the United States; that he is the head of a family or has arrived at the age of twenty-one years; that he has abandoned his tribal relations and adopted the habits and pursuits of civilized life (Form 4-079), and this must be corroborated by the affidavits of two or more disinterested witnesses (Form 4-077).

If no objection appears, the register and receiver will then permit him to enter the tract desired according to existing regulations, so far as applicable, under the homestead law, the register writing across the face of the application (Form 4-007) the words "Indian homestead—act of March 3, 1875;" they will note the entry on their records and make returns thereof to this office, with which they will send the affidavits submitted. It will be observed that the provisions of the eighth section of the act of May 20, 1862 (section 2301 of the Revised Statutes), which admits of the commuting of homestead to cash entries, do not apply to this class of homesteads.

All lands obtained under the homestead laws are exempt from liability for debts contracted prior to the issuing of patent therefor.

For homestead entries on lands in MICHIGAN, WISCONSIN, IOWA, MISSOURI, MINNESOTA, KANSAS, NEBRASKA, DAKOTA, ALABAMA, MISSIS-

SIPPI, LOUISIANA, ARKANSAS, and FLORIDA, commissions and fees are to be paid according to the following table:

Acres.	Price per acre.	Commissions.		Fee.	Total of fee and commissions.
		Payable when entry is made.	Payable when certificate issues.	Payable when entry is made.	
160	\$2 50	\$8 00	\$8 00	\$10 00	\$26 00
80	2 50	4 00	4 00	5 00	13 00
40	2 50	2 00	2 00	5 00	9 00
160	1 25	4 00	4 00	10 00	18 00
80	1 25	2 00	2 00	5 00	9 00
40	1 25	1 00	1 00	5 00	7 00

In addition to the States and Territories above named, the same rates will apply to OHIO, INDIANA, and ILLINOIS, if any vacant tracts can be found liable to entry in these three States, where but very few isolated tracts of public land remain undisposed of.

In the PACIFIC and other POLITICAL DIVISIONS, *viz*: on lands in CALIFORNIA, NEVADA, OREGON, COLORADO, NEW MEXICO, and WASHINGTON, and in ARIZONA, IDAHO, UTAH, WYOMING, and MONTANA, the commissions and fees are to be paid according to the following table:

Acres.	Price per acre.	Commissions.		Fee.	Total of fee and commissions.
		Payable when entry is made.	Payable when certificate issues.	Payable when entry is made.	
160	\$2 50	\$12 00	\$12 00	\$10 00	\$34 00
80	2 50	6 00	6 00	5 00	17 00
40	2 50	3 00	3 00	5 00	11 00
160	1 25	6 00	6 00	10 00	22 00
80	1 25	3 00	3 00	5 00	11 00
40	1 25	1 50	1 50	5 00	8 00

OHIO, INDIANA, AND ILLINOIS.

In reference to disposals of any remnant of public lands in these States, it may be proper here to introduce the following *regulations for the admission of entries by the Commissioner of the General Land Office, under act of March 3, 1877, in States where there are no district land offices*:

The act of Congress of March 3, 1877, making appropriations for the legislative, executive, and judicial expenses of the government for the year ending June 30, 1878, provides: "That public lands situated in States in which there are no land offices may be entered at the General Land Office subject to the provisions of law touching the entry of public lands; and that the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record; and moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury."

Under these provisions the Commissioner of the General Land Office is prepared to perform the duties which by law were devolved upon

the registers and receivers of the district land offices at Chillicothe, Ohio; Springfield, Illinois; and Indianapolis, Indiana, prior to the abolition of those offices by act of Congress of July 31, 1876.

In so doing, he will receive applications accompanied by the purchase money, or fees and commissions, as the case may be, from parties desiring to enter any isolated tracts which may remain undisposed of in said States, either from the parties in person or through the mails, and in like manner any proof or payment proper to perfect entries already made, take the proper action thereon, and duly advise the parties in regular course of business.

The following method will be observed in carrying into effect the provisions of the act :

1st. A clerk has been designated by the Commissioner to receive and act upon the applications which may be offered for such entries, and to have charge of the correspondence connected therewith; all moneys received to go into the charge of the receiving clerk, designated under section 461 of the United States Revised Statutes, and any moneys found to belong to the United States on the cases being finally passed upon to be turned over to the Treasury according to law.

2d. Applications will be immediately entered in a preliminary abstract for each State in the order in which they are received; will be carefully examined in connection with the plats, files, and records, and admitted or rejected, according to the law and instructions governing the case. From such preliminary abstracts the admitted applications will be carried to a regular monthly abstract, and the proper certificates and receipts will be issued by the Commissioner, acting as *ex officio* register and receiver. The entries thus admitted will be properly posted in the tract books, and the papers therefor placed on file, for such further action as may be necessary. These entries will be numbered consecutively in continuation of the series entered upon at the respective district offices. The applicants will be promptly advised of the result of the examination, and, where the desired entries are admitted, will be furnished with the appropriate paper, to be held as evidence of title until the delivery of the patents.

3d. In case of conflicting applications, that which is first received shall be first acted upon, as above directed, and will be considered as giving the applicant the legal right to the tract applied for, if unexceptionable in other respects.

LAWS TO PROMOTE TIMBER CULTURE.

The timber culture act of March 3, 1873, having been amended by the act of March 13, 1874, the latter has been further amended by the act of June 14, 1878 (copy attached, No. 4).

I. Certain provisions of the act of March 13, 1874, are repealed by the act of June 14, 1878.

1. The act of March 13, 1874, at the close of its first section, contains the following: "*Provided*, That not more than one quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this act, unless fractional subdivisions of less than forty acres are entered, which, in the aggregate, shall not exceed one quarter section." In the act of June 14, 1878, the concluding words, "unless fractional subdivisions of less than forty acres are entered, which, in the aggregate, shall not exceed one quarter section," are omitted. Hence, the rule forbidding more than one entry is made universal, and will govern in all future cases.

2. The provision of the act of March 13, 1874, requiring that the trees shall be not "more than twelve feet apart each way," is omitted from the act of June 14, 1878. The latter requires, however, that the final proof shall show "that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be growing at least six hundred and seventy-five living and thrifty trees to each acre."

3. The closing sentence of the second section of the act of March 13, 1874, provides that "in case of the death of a person who has complied with the provisions of this act for the period of three years, his heirs or legal representatives shall have the option to comply with the provisions of this act, and receive, at the expiration of eight years, a patent for one hundred and sixty acres, or receive, without delay, a patent for forty acres, relinquishing all claim to the remainder." This provision is not contained in the act of June 14, 1878.

4. The following section of the act of March 13, 1874, relating to homestead entries on which timber is cultivated, is omitted from the act of June 14, 1878:

SEC. 4. That each and every person who, under the provisions of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, or any amendment thereto, having a homestead on said public domain, who, at any time after the end of the third year of his or her residence thereon, shall, in addition to the settlement and improvements now required by law, have had under cultivation, for two years, one acre of timber, the trees thereon not being more than twelve feet apart each way, and in a good thrifty condition, for each and every sixteen acres of said homestead, shall, upon due proof of such fact by two credible witnesses, receive his or her patent for said homestead.

The rights of claimants under entries actually made according to the act of March 13, 1874, before the 14th June, 1878, when the amendatory act took effect, are not affected by the repeal of the provisions referred to. The parties interested, if they so elect, may consummate their entries according to the provisions of the act under which they were initiated. And homestead entries made before the 14th June, 1878, will be patented according to the fourth section above quoted, where the facts are such as to bring the cases within its provisions, and the interested parties so desire. But entries made since that time must be adjusted according to the principles of the law as modified by the amendatory act.

II. The principal points to be observed in proceedings thereunder may be stated as follows:

1. The privilege of entry under the act of June 14, 1878, is confined to persons who are heads of families, or over twenty-one years of age, and who are citizens of the United States, or have declared their intention to become such, according to the naturalization laws.

2. The affidavit required for initiating an entry under the act of June 14, 1878, may be made before the register or receiver of the district office for the land district embracing the desired tract, before the clerk of some court of record, or before any officer authorized to administer oaths in that district.

3. Not more than 160 acres in any one section can be entered under this act, and no person can make more than one entry thereunder.

4. The ratio of area required to be broken, planted, &c., in all entries under the act of June 14, 1878, is *one-sixteenth* of the land embraced in the entry, except where the entered tract is less than 40 acres, in which case it is one-sixteenth of that quantity. The party making an entry of a quarter section, or 160 acres, is required to break or plow five acres covered thereby during the first year, and five acres in addition during

the second year. The five acres broken or plowed during the first year he is required to cultivate by raising a crop, or otherwise, during the second year, and to plant in timber, seeds, or cuttings during the third year. The five acres broken or plowed during the second year he is required to cultivate by raising a crop, or otherwise, during the third year, and to plant in timber, seeds, or cuttings during the fourth year. The tracts embraced in entries of a less quantity than one quarter section are required to be broken or plowed, cultivated, and planted in trees, tree-seeds, or cuttings, during the same periods, and to the same extent, in proportion to their total areas, as are provided for in entries of a quarter section. Provision is made in the act for an extension of time in case the trees, seeds, or cuttings planted should be destroyed by grasshoppers or by extreme and unusual drought.

5. If, at the expiration of eight years from the date of entry, or at any time within five years thereafter, the person making the entry, or, if he be dead, his heirs or legal representatives, shall prove, by two credible witnesses, the planting, cultivating, and protecting of the timber for not less than eight years, according to the provisions of the act of June 14, 1878, he or they will be entitled to a patent for the land embraced in the entry. The following classes of trees are recognized by this office as timber in the meaning of the law, viz: Ash, alder, birch, beech, black walnut, bass-wood, black locust, cedar, chestnut, cottonwood, elm, fir, including spruce; hickory, honey locust, larch, maple, including box elder; oak, pine, plane tree, otherwise called cotton tree, buttonwood or sycamore; service tree, otherwise called mountain ash; white walnut, otherwise called butternut; white willow, and white wood, otherwise called tulip tree.

6. If, at any time after one year from the date of entry, and prior to the issue of a patent therefor, the claimant shall fail to comply with any of the legal requirements, then, and in that event, such entry will become liable to a contest in the manner provided in homestead cases, and upon due proof of such failure the entry will be canceled, and the land become again subject to entry under the homestead laws, or by some other person under the act of June 14, 1878.

7. No land acquired under the provisions of the act of June 14, 1878, will in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

8. The fees for entries under the act of June 14, 1878, are \$10 if the tract applied for is more than 80 acres, and \$5 if it is 80 acres or less; and the commissions of registers and receivers on all entries (irrespective of area) are \$4 (\$2 to each) at the date of entry, and a like sum at the date of final proof.

9. No distinction is made, as to area or the amount of fee and commissions, between minimum and double-minimum lands. A party may enter 160 acres of either on payment of the prescribed fee and commissions.

10. The fifth section of the act approved March 3, 1857, entitled "An act in addition to an act to punish crimes against the United States, and for other purposes," is extended to all oaths, affirmations, and affidavits required or authorized by the act of June 14, 1878.

11. Parties who have already made entries under the timber culture acts of March 3, 1873, and March 13, 1874, of which the act of June 14, 1878, is amendatory, may complete the same by compliance with the requirements of the latter act; that is, they may do so by showing, at the time of making their final proof, that they have had under cultiva-

tion, as required by the act of June 14, 1878, an amount of timber sufficient to make the number of acres required thereby, being one-fourth the number required by the former acts. It will be sufficient for this if the parties show that of the entire area embraced in their respective entries they have cultivated in timber for the period required by the act of 1878 an area not less than an one-sixteenth part, and that they have then growing upon such cultivated area the prescribed number of "living and thrifty trees," viz, 6,750 where the entry is for 160 acres, 3,375 where it is for 80 acres, and 1,688 where it is for 40 acres or less.

III. The following regulations are prescribed pursuant to the fifth section of the act of June 14, 1878, viz:

1. The register and receiver will not restrict entries under this act to one quarter section only in each section, as was formerly done under the acts to which this is amendatory, but may allow entries to be made of subdivisions of different quarters of the same section, provided that each entry shall form a compact body not exceeding 160 acres, and that not more than that quantity shall be entered in any one section. Before allowing any entry applied for, they will, by a careful examination of the plat and tract books with reference to any previous entry or entries within the limits of the same section, satisfy themselves that the desired entry is admissible under this rule.

2. When they shall have satisfied themselves that the land applied for is properly subject to such entry, they will require the party to make the prescribed affidavit and to pay the fee and that part of the commissions payable at the date of entry, and the receiver will issue his receipt therefor, in duplicate, giving the party a duplicate receipt. They will number the entry in its order in a separate series of numbers, unless they have already a series under the acts to which this act is amendatory, in which case they will number the entry as one of that series; they will note the entry on their records and report it in their monthly returns, sending up all the papers therein, with an abstract of the entries allowed during the month under this act. If the affidavit is made before a justice of the peace, which the act admits of, his official character and the genuineness of his signature must be certified under seal.

3. When a contest is instituted, as contemplated in the third section of the act of June 14, 1878, the contestant will be allowed to make application to enter the land. The register will thereupon indorse on the application the date of its presentation, and will make the application and the contestant's affidavit setting forth the grounds of contest the basis for further proceedings, these papers to accompany the report submitting the case to the General Land Office. Should the contest result in the cancellation of the contested entry the contestant may then perfect his own, but no preference right will be allowed under this section unless application is made by him at date of instituting contest. But reference is here made to the subsequent act of Congress (copy attached, No. 14), approved May 14, 1880, the provisions of which allowing preference rights apply to timber culture entries as well as to homesteads and pre-empions.

4. The fees and commissions in this class of entries the receiver will account for in the usual manner, indicating the same as fees and commissions on timber culture entries, which will be charged against the maximum of \$3,000 now allowed by law.

5. In all cases under this act it will be required that trees shall be cultivated which shall be of the classes included in the term "*timber*," the cultivation of shrubbery and fruit trees not being sufficient. (See classes of trees before mentioned.)

6. The applications, affidavits, and receipts in entries allowed under the act of June 14, 1878, will be made out according to the forms hereto attached, Nos. 4-009, 4-073, and 4-142.

The foregoing portion of this circular has reference to public lands which are *agricultural* in character. There are special laws for the disposal of *desert lands, saline lands, town sites on the public domain*, and lands which are unfit for cultivation and valuable chiefly for timber or stone.

DESERT LANDS.

By desert lands is meant a class of lands which will not, without irrigation, produce any agricultural crop. Land along streams and around bodies of water which produces grass suitable for hay without artificial irrigation is not desert land within the meaning of the law, and such lands are not subject to desert entry. Title to desert lands in any of the following States and Territories may be acquired under the act of Congress of March 3, 1877 (copy attached, No. 5), viz, the *States of California, Oregon, and Nevada*, and the *Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota*. Any party desiring to avail himself thereof must file with the register and receiver of the proper district land office a declaration in form prescribed (No. 4-274), which must be under oath, and may be executed before either the register or receiver or the clerk of any court of record having a seal. It must be set forth that the applicant is a citizen of the United States, or that he has declared his intention to become such, in which case a duly certified copy of his declaration of intention to become a citizen must be presented and filed. It must also be set up that the applicant has made no other declaration for desert lands under the provisions of this act, and that he intends to reclaim the tract of land applied for, not exceeding one section, by conducting water thereon within three years from the date of his declaration. The declaration must also contain a description of the land applied for, by legal subdivisions if surveyed, or if unsurveyed as nearly as possible without a survey by giving, with as much clearness and precision as possible, the locality of the tract with reference to known and conspicuous landmarks or the established lines of survey, so as to admit of its being thereafter readily identified when the lines of survey come to be extended.

The law requires desert entries to be compact in form. The requirement of compactness will be held to be complied with on surveyed lands when a section, or part thereof, is described by legal subdivisions compact with each other, as nearly in the form of a technical section as the situation of the land and its relation to other lands will admit of, although parts of two or more sections be taken to make up the quantity or equivalent of one section. But entries which show upon their face an absolute departure from all reasonable requirements of compactness, and being merely contiguous by the joining of ends to each other, will not be admitted, whether on surveyed or on unsurveyed lands.

On unsurveyed lands the degree of compactness required will be such as, upon the adjustment of the lines after survey, will bring the land within the limits and general form of a technical section, or part thereof, as nearly as may be.

In no case will the side lines be permitted to exceed one mile and a quarter, when the full quantity of six hundred and forty acres is en-

tered. When the entry embraces a less quantity than a whole section, or its equivalent, the limit to the side lines will be proportionately decreased.

Entries, whether by legal subdivisions on surveyed lands, or of an irregular form on unsurveyed lands, running along the margins or including both sides of streams, and not being compact in any true sense, will not be permitted.

As preliminary to the filing of the declaration, it must be satisfactorily shown that the land therein described is *desert land* as defined in the second section of the act. To this end, the testimony of at least two disinterested and credible witnesses is required, whose testimony will be reduced to writing in the usual manner; or the evidence may be furnished in the form of affidavits executed before the clerk of any court of record having a seal, the credibility of the witnesses to be certified by said clerk. The witnesses must clearly state their acquaintance with the premises, and the facts as to the condition and situation of the land upon which they base their judgment. A form of affidavit, to be sworn to and subscribed by each witness is attached (No. 4-074). Where the land is situated on the borders of streams or lakes evidence will also be required that the land in its natural state is not productive of hay. After proof has been made to the satisfaction of the district officers, the receiver will receive from the applicant the sum of twenty-five cents per acre for the land applied for; the register will receive and file his declaration, and they will jointly issue, in duplicate, a certificate in the form attached (No. 4-199). One of these duplicates will be delivered to the applicant; the other will be retained by the register and receiver with the declaration and proof. They will bear a number according to the order in which the certificate was issued. The register will keep a record of the certificates issued, showing the number, date, amount paid, name of applicant, and description of the land applied for in each case, and, in addition, he will note the same upon his plats and records as in cases of ordinary entry. At the end of each month he will, with his regular returns, forward to this office an abstract of the declarations filed and certificates issued under this act during the month, accompanying same with the declarations and proofs filed and the retained copy of certificate in each case. The receiver will also account for the money received under this act in the usual form. At any time within three years after the date of filing the declaration and the issue of certificate, the proper party may make satisfactory proof of having conducted water upon the land applied for. This proof must consist of the testimony of at least two disinterested and credible witnesses, who must appear in person before the register and receiver. They must declare that they have personal knowledge of the condition of the land applied for, and of the facts to which they testify; and their testimony must be reduced to writing in the usual manner. (See Forms 4-372 and 4-373.) The party must also present and surrender the duplicate certificate issued when the declaration was filed. When this is done, and the final proof made to the satisfaction of the district officers, the receiver will receive the additional payment of one dollar per acre, receipt therefor in duplicate, as per Form 4-143, and give the party a duplicate receipt. The register will also issue a final certificate of purchase (Form 4-200). They will give to these final certificates and receipts a special series of numbers, and will make separate abstracts of same at the end of each month, sending up there-with the final certificates, receipts, and proofs.

In cases where declarations shall be filed under this act for unsur-

vayed lands, the register and receiver will immediately forward copies of the declarations to the surveyor general, in order that the proper surveys may be made. The claimants will be required to take their claims by legal subdivisions when the lines of public surveys shall have been extended over the same.

SALINE LANDS.

The act of Congress of January 12, 1877 (copy attached, No. 6), provides a mode of proceeding by which public lands indicated, by the field-notes of survey or otherwise, to be *saline in character* may be rendered subject to disposal.

Should *prima facie* evidence that certain tracts are saline in character be filed with the register and receiver of the proper land district, they will designate a time for a hearing at their office, and give notice to all parties in interest, in order that they may have ample opportunity to be present with their witnesses.

At the hearing the witnesses will be thoroughly examined with regard to the true character of the land, and whether the same contains any known mines of gold, silver, cinnabar, lead, tin, copper, or other valuable mineral deposit, or any deposit of coal.

The witnesses will also be examined in regard to the extent of the saline deposits upon the given tracts, and whether the same are claimed by any person; if so, the names of the claimants and the extent of their improvements must be shown.

The testimony should also show the agricultural capacities of the land, what kind of crops, if any, have been raised thereon, and the value thereof. The testimony should be as full and complete as possible, and, in addition to the leading points indicated above, everything of importance bearing upon the question of the character of the land should be elicited at the hearing.

The register and receiver will transmit the testimony to this office with their joint opinion thereon. When the case comes before this office, such a decision will be rendered in regard to the character of the land as the law and the facts may warrant.

Should the given tracts be adjudged agricultural, they will be subject to disposal as such. Should the tracts be adjudged *saline lands*, the register and receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated, and to sell said tract or tracts to the highest bidder for cash, at a price not less than \$1.25 per acre.

In case said lands fail to sell when so offered, the same will be subject to private sale at such land office for cash, at a price not less than \$1.25 per acre, in the same manner as other public lands are sold, and already indicated herein.

The provisions of this act do not apply to any lands within the Territories, nor to any within the States of Mississippi, Louisiana, Florida, California, and Nevada, none of which have had a grant of salines by act of Congress.

TOWN SITES.

The eighth chapter of the Revised Statutes of the United States, comprising sections 2380 to 2394, and act of Congress of March 3, 1877 (copies attached, Nos. 1 and 7), provide for the disposal of town sites on the public domain.

There are two methods by which title to such town property may be acquired, subject to the election of parties desiring to do so; one provided for in sections 2382, 2383, 2384, and 2385, and the other in sections 2387, 2388, and 2389 of the Revised Statutes of the United States. The first method limits the extent of the area of the city or town to 640 acres, to be laid off into lots, and which, after filing in the General Land Office the transcript, statement, and testimony required by section 2382, are to be offered at public sale to the highest bidder, at a minimum of ten dollars for each lot. Lots not thus disposed of are made thereafter liable to private entry at said minimum, or at such reasonable price as the Secretary of the Interior may order from time to time, as the municipal property may increase or decrease, after at least three months' notice.

A privilege, however, is granted to any *actual settler* upon any *one* lot of pre-empting that, and any additional lot on which he may have "substantial improvements," at said minimum, at any time before the day fixed for the public sale.

There are, however, certain preliminary conditions to be complied with in order to the enjoyment of the privileges granted in this section. Parties who have already founded, or may hereafter found, a city or town are required—

1st. To file with the recorder of the county in which the town or city is situate a plat thereof, not exceeding 640 acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed.

2d. Also the plat or map of such city or town must exhibit the name of the city or town, the streets, squares, blocks, lots, and alleys; the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed 4,200 square feet, with a statement of the extent and general character of improvements.

3d. Further, the said map and statement to be verified by oath by the party acting for and in the behalf of the founders of the city or town.

4th. Within one month after filing the map or plat with the recorder of the county a verified copy of said map and statement is to be sent to the General Land Office, accompanied by the testimony of two witnesses that such city or town has been established in good faith.

5th. Where the city or town is within the limits of an organized land district, a similar copy of the map and statement must be filed with the register and receiver.

Section 2383 provides for cities or towns founded on *unsurveyed* land, and directs that it may be lawful to adjust the exterior limits of the premises with the lines of the public surveys, where it can be done without impairing the rights of others. It also provides for the issue of patents for lots disposed of under these provisions as in ordinary cases.

Section 2384 authorizes the Secretary of the Interior, in case the parties interested shall fail or refuse, within twelve months of the founding of a city or town on the public domain, to file in the General Land Office a copy of the map, with the statement and testimony called for by section 2382, to cause a survey and plat to be made of the said city or town, and thereafter the lots to be sold, as provided, at an increase of fifty per cent. on the minimum price of ten dollars per lot.

Sections 2387, 2388, and 2389 grant to the inhabitants of cities and towns on the public lands the privilege of entering the lands occupied as town sites at the minimum price of one dollar and twenty-five cents

per acre, through the corporate authorities of such towns and cities, or the judges of the county courts, acting as trustees for the occupants thereof.

This privilege is granted where such mode of obtaining title to town property is preferred to that provided in sections 2382, 2383, 2384, and 2385, which are not repealed by the former sections. The inhabitants of these towns or cities are limited, however, to one or the other of the modes provided in these statutes, and cannot commence proceedings under both systems.

The provisions of sections 2382, 2383, 2384, and 2385 were originally embodied in the acts of Congress of July 1, 1864, and March 3, 1865; those of sections 2387, 2388, and 2389 in the act of March 2, 1867. Section 2394 is a re-enactment of the act of June 8, 1868. It has reference to cases where the inhabitants of cities or towns proceeded to act under the provisions of the acts of July 1, 1864, and March 3, 1865, prior to June 22, 1874, the date of the Revised Statutes, and in which they have partly proved up and paid for the lots claimed by them according to said acts. It provides for extending the privilege of sections 2387, 2388, and 2389, if the town authorities in any such case should elect to proceed under them, to such of the inhabitants as may not have paid for their lots, without interfering with the issuing of patents to those who had made or might make entries or elect to proceed under the acts of July 1, 1864, and March 3, 1865, or sections 2382, 2383, 2384, and 2385 of the Revised Statutes. Accordingly, should any case be presented where proceedings had been commenced, as aforesaid, by the inhabitants of any town or city before the date indicated, and a part of them, not having entered and paid for their lots, desire to take advantage of the other system referred to, they would be entitled under section 2394, on application to the register and receiver of the proper district office, through the town authorities, pursuant to the provisions of sections 2387, 2388, and 2389, to enter or file upon such portion of the town site as has not already been entered and paid for, and is not in possession of parties electing to complete their titles under the original proceedings; after which, that part of the town site so entered or filed upon will be disposed of under the last-mentioned sections, and the remaining portion, if any, under sections 2382, 2383, 2384, and 2385. Section 2394 has no reference to any case in which proceedings for acquiring title to the town site were commenced subsequent to June 22, 1874, the inhabitants in all such cases being restricted to the method of acquiring title according to which they may have commenced to act.

Section 2394 further provides that, in addition to the minimum price of the lands included in any town site entered under its provisions and those of sections 2387, 2388, and 2389, there shall be paid by the parties availing themselves thereof all costs of surveying and platting any such town site, and expenses incident thereto, incurred by the United States, before any patent therefor shall issue. Hence, when it is desired to enter a town site found upon the *unsurveyed* public lands, a written application should be presented to the surveyor-general of the proper district for a survey of the same under section 2401 of the Revised Statutes, and the amount estimated by him as sufficient to cover the said cost and expenses deposited with any assistant United States treasurer or designated depositary in favor of the United States Treasurer, to be passed to the credit of the fund created by "individual depositors for the survey of the public lands," the depositor taking a duplicate certificate of deposit, one to be filed with the surveyor general to be sent to the General

Land Office, and the other retained by the depositor. On receiving such certificate, showing that the requisite sum has been deposited in a proper manner to pay for the work, the surveyor general will transmit to the register and receiver of the district land office his certificate of such payment having been made, and will contract with a competent United States deputy surveyor and have the survey made and returned in the same manner as other public surveys, after which the lands embraced within the site may be entered, or filed upon, as in the case of town sites upon surveyed lands.

When town sites are located upon land already surveyed, the entry must be made in conformity to the legal subdivisions of the public lands, and here no costs in regard to past surveys will be exacted. When sites are upon *unsurveyed* land, it will be necessary, after the extension thereto of the public survey, to close those lines upon the exterior limits of the town site.

Section 2389, it will be observed, stipulates that there shall be conceded, where the number of inhabitants is one hundred and less than two hundred, not exceeding three hundred and twenty acres; where the population is more than two hundred and less than one thousand, not exceeding six hundred and forty acres; and where the inhabitants number one thousand and over, not exceeding twelve hundred and eighty acres; and for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres.

All military and other reservations of the United States, private grants, and valid mining claims are excluded from the operation of these town-site laws. In patents issued thereunder it is expressly declared as follows, viz: "No title shall be hereby acquired to any mine of gold, silver, cinnabar, or copper, or any valid mining claim or possession held under existing laws of Congress." (Section 2392, Revised Statutes.)

In any Territory in which a land office may not have been established the declaratory statements provided for in the foregoing statutes may be filed with the surveyor general of the proper district.

In the act of Congress of March 3, 1877, section 1 restricts the amount of land that can be reserved from pre-emption and homestead entry, by reason of the existence or incorporation of a town upon the public domain, to 2,560 acres, unless the excess shall "be actually settled upon, inhabited, improved, and used for business and municipal purposes."

Section 2 confirms pre-emption and homestead entries already made within the corporate limits of a town, the entries being regular in all respects, *provided* it shall be satisfactorily shown that the lands so entered are "not settled upon or used for any municipal purpose, nor devoted to any public use of such town."

Section 3 provides that, when it shall appear that the corporate limits of a town embrace lands in excess of the maximum quantity allowed, the proper authorities may select those portions that are actually occupied, used, and improved for municipal purposes, which lands shall be reserved from pre-emption and homestead entry, and the residue will be restored, or become subject to such settlement and entry. This selection must be made within sixty days from notice, and in default thereof a hearing will be ordered and testimony taken as to the condition of the land, and such portion set apart as shall appear to be within the meaning of the act.

The fourth section, with the proviso to the second section, provides for additional entries by towns, where entries have already been made,

in cases in which an increase in the number of inhabitants would entitle them to an entry of a larger area under section 2389 of the Revised Statutes of the United States, such entries, however, to be within the maximum amount, or 2,560 acres.

STONE AND TIMBER LANDS.

The first, second, and third sections of the act of Congress of June 3, 1878 (copy attached, No. 8), provide for the sale of surveyed lands in California, Oregon, Nevada, and in Washington Territory not yet proclaimed and offered at public sale, valuable chiefly for timber and stone, unfit for cultivation, and consequently for disposal under the pre-emption and homestead laws. When a party applies to purchase a tract thereunder, the register and receiver will require him to make affidavit that he is a citizen of the United States by birth or naturalization, or that he has declared his intention to become a citizen under the naturalization laws. If native born, parol evidence of that fact will be received. If not native born, record evidence of the prescribed qualification must be furnished. In connection therewith, he will be required to make the sworn statement in duplicate, according to the attached form, No. 4-537, as provided for in the second section of the act. One of the duplicate statements filed in each is by the act required to be transmitted to this office, and the registers and receivers will accordingly send up with their monthly returns the duplicate statements to be transmitted for the month.

The evidence in regard to the publication of notice required to be furnished, in the third section of the act, must consist of the affidavit of the publisher or other person having charge of the newspaper in which the notice is published, with a copy of the notice attached thereto, setting forth the nature of his connection with the paper, and that the notice was duly published for the prescribed period. The evidence required in the same section with regard to the non-mineral character of the land, and its unoccupied and unimproved condition, must consist of the testimony of at least two disinterested witnesses, to the effect that they know the facts to which they testify from personal inspection of the land and of each of its smallest legal subdivisions, as per form attached, No. 4-371. This testimony may be taken before the register or receiver, or any officer using an official seal and authorized to administer oaths in the land district in which the land lies. Upon such proof being produced, if no adverse claim shall have been filed, the entry applied for may be allowed in pursuance of the provisions of the act. The receiver will issue his receipt for the purchase money, and the register his certificate of purchase, numbering the entry in the regular cash series. (Forms of application, receipt, and certificate are attached, Nos. 4-001, 4-131, and 4-189.) The register and receiver will enter the sale on their books, and make the usual returns therefor to this office, noting on the monthly abstracts, opposite the entry, and on the entry papers, a reference to the act of Congress under which allowed. They will forward all the papers in the case with their returns to this office, except the retained duplicate statement filed under the second section of the act, to which the register will give the same number with the other papers for the entry, and retain it on the appropriate file with the formal application in his office.

The register and receiver will be entitled to a fee of five dollars each for allowing an entry under said act, and jointly at the rate of twenty-

two cents and a half per hundred words for testimony reduced by them to writing for claimants, which will be accounted for as other fees.

If, at the expiration of the sixty days' notice provided for in the third section of the act, an adverse claim should be found to exist calling for an investigation, the register and receiver will allow the parties a hearing according to the rules of practice.

In case of an association of persons making application for such an entry, each of the persons must prove the requisite qualifications, and their names must appear in and be subscribed to the sworn statement, as in case of an individual person. They must also unite in the regular application for entry, which will be made in their joint names as in other cases of joint cash entry. The forms prescribed for cases of applications by individual persons may be adapted for use in applications of this class.

REPAYMENTS.

The recent act of Congress, approved June 16, 1880 (copy attached, No. 17), being additional to the provisions of sections 2362 and 2363 Revised Statutes United States (also attached, No. 1), provides in its *first* section for the repayment "to innocent parties" of the fees, commissions, &c., paid by them on fraudulent and void additional soldier's and sailor's homestead entries which have been canceled.

Applications for repayment under this section must be accompanied by the duplicate receipt, or evidence of the loss of the same, and by a concise statement under oath setting forth all the facts and circumstances connected with the procurement and use of the fraudulent papers upon which the canceled entries were based, together with such documentary or other proof as may tend to establish the innocence of the parties relative thereto.

Repayment of fees, commissions, and excesses under section 1 can be made only to the party who paid the same. A conveyance of the land in these cases will not be deemed to carry with it the right to repayment.

The *second* section of the act provides, 1st, for the repayment of purchase money and of fees, commissions, and excess payments, where entries of public lands are canceled for conflict, "or where, from any cause, the entry has been erroneously allowed and cannot be confirmed;" and, 2d, for the repayment of the excess purchase money paid on lands sold at double minimum prices which are afterwards found to have been salable at \$1.25 per acre.

Under section 2362 of the Revised Statutes, repayment is authorized upon satisfactory proof "that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed," while in section 2 of the act of June 16, 1880, it is provided that the Secretary of the Interior shall cause repayment to be made "when, from any cause, the entry has been erroneously allowed and cannot be confirmed."

Under the former law repayment was not authorized when the sale could be confirmed but for failure of compliance with legal requirements on the part of the person making the same. The act aforesaid seems to change the old law in this, that it authorizes repayment, when, from any cause, the entry has been erroneously allowed and cannot be confirmed.

If the records of the Land Office or the proofs furnished should show that the entry ought not to be allowed, it would be error to allow it. In

such a case repayment would be authorized. But if a tract of land were subject to entry and the proofs showed a compliance with law, and the entry should be canceled because the proofs were false, it could not be held that the entry was erroneously allowed, and in such a case repayment would not be authorized.

In cases of applications for repayment under the second section, where patent has not been issued, the duplicate receipt must be surrendered. The applicant must also make affidavit that he has not transferred or otherwise encumbered the title to the land, and that said title has not become a matter of record. This affidavit may be made before either the register or receiver of the district land office, or before a notary public or a justice of the peace, or other officer authorized to administer oaths. When made before a notary public or justice of the peace a certificate of official character is required. If the duplicate receipt has been lost or destroyed the party applying must advertise it, giving notice of his intention to apply for a repayment of the purchase money. This advertisement must be inserted weekly for six weeks in some newspaper of extensive circulation in the vicinity of the land. A copy of the advertisement, with the affidavit of the publisher that it was inserted the requisite number of times attached thereto, must accompany the papers in the case. Where the duplicate receipt has been lost or destroyed, a certificate will also be required from the proper recording officer showing that the same has not become a matter of record, and that there is no encumbrance of the title to the land thereunder. A like certificate must be furnished when the application is made by another than the original purchaser. Where a patent has been executed and delivered it must be surrendered. Where the title has become a matter of record, and in all cases where patent has issued, a duly executed deed, relinquishing to the United States all right and claim to the land under the entry or patent, must accompany the application. This deed must be duly recorded, and a certificate must also be produced from the proper recording officer where the land is situated, showing that said deed is so recorded, and that the records of his office do not exhibit any other conveyance or encumbrance of the title to the land. Where a valid title has been conveyed by the United States to any part of the tract embraced in a canceled entry, a duly executed and recorded deed, reconveying to the United States the title derived therefrom, must accompany the application. The reconveyance to the United States must conform in every particular to the laws of the State relative to transfers of real property; in the case of a married man, a release of dower by the wife, and in case of executors or administrators, due proof of authority to alienate the estate. Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained, and must show that the parties applying are the heirs and the only heirs of the deceased. Where application is made by executors, a certificate of executorship from the probate court must accompany the application. Where application is made by administrators, the original, or a certified copy of the letters of administration, must be furnished.

Those persons are assignees, within the meaning of the statutes authorizing the repayment of purchase money, who purchase the land after the entries thereof are completed and take assignments of the title under such entries prior to complete cancellation thereof, when the entries fail of confirmation for reasons contemplated by the law. To

construe said statutes so as to recognize the assignment or transfer of the mere claim against the United States for repayment of purchase money, or fees and commissions, disconnected from a sale of the land or attempted transfer of title thereto, would be against the settled policy of the government and repugnant to section 3477 of the Revised Statutes. Where applications are made by assignees, the applicants must show their right to repayment by furnishing properly authenticated abstracts of title, or the original deeds or instruments of assignment, or certified copies thereof, and also show by affidavits or otherwise that they have not been indemnified by their grantors or assignors for the failure of title, and that title has not been perfected in them by their grantors through other sources. Where there has been a conveyance of the land and the original purchaser applies for repayment, he must show that he has indemnified his assignee or perfected the title in him through another source, or produce a full reconveyance to himself from the last grantee or assignee. In the case of applications for the repayment of fees, commissions, &c., on canceled homestead and other entries, under the *second* section of the act, the duplicate receipt must be surrendered with a relinquishment of all right, title, and claim in and to the land described in the receipt indorsed thereon, attested by two witnesses, and acknowledged before the register and receiver or before any officer authorized to take acknowledgments. If the duplicate receipt has been lost or destroyed an affidavit stating the fact must be furnished, together with a relinquishment of the character indicated. The applicant must make affidavit that he has not made another entry with the credit of the fee and commission paid by him on the canceled entry.

In the case of applications for the repayment of double minimum excesses, the duplicate receipt must be surrendered. If lost or destroyed, an affidavit stating the facts must accompany the application.

All applications for repayment under the above provisions must be made in writing and be signed by the party applying, and must describe the tract or otherwise designate the entry with certainty. They should be transmitted with all the papers in the case through the register and receiver of the proper district land office, who will make due report thereon.

PRESENTATION OF APPEALS.

Any person making application to file upon or enter a tract of public land, having complied with the law and regulations touching the presentation of such applications, and feeling aggrieved by the refusal of the register and receiver to recognize his claim, or by any order, direction, or condition affecting the same, may appeal from the action of those officers to the Commissioner of the General Land Office, who is by law invested with the supervision and control of all matters relating to the disposal of the public lands, subject to the direction of the Secretary of the Interior. (Revised Statutes, sections 453 and 2478.)

For the purpose of enabling such appeal to be taken and perfected, the register and receiver will indorse upon the written application the date when presented and their reasons for refusing it, promptly advising the party in interest of the facts, and note upon their records a memorandum of the transaction. The party aggrieved will then be allowed thirty days from the receipt of notice of such action within which to file his appeal to the Commissioner.

The appeal must be in writing, definitely setting forth in clear and concise terms the specific points of exception to the decision appealed from, and the reason or reasons upon which such exceptions are based.

Of the sufficiency of such appeal this office will be the judge, and will dismiss from further notice any case wherein the appeal is based upon frivolous grounds, or where the proper formalities and grounds are wanting, unless, in the record itself, either of the case or upon the books of this office, some sufficient cause shall be found for further consideration under the general power of supervision vested in the Commissioner by law.

Upon objection to the finding of this office regarding an appeal, the matter will be reported to the honorable Secretary of the Interior for his direction therein.

The appeal must in all cases be filed with the district officers, to be forwarded by them with a full report of the case to this office.

This report should recite the proceedings had, to wit: The application and rejection, with the reasons therefor, and also the status of the tract involved, as shown by the records of the office, together with a reference to all entries, filings, annotations, memoranda, and correspondence shown by such record relating thereto, so as to direct the attention of the Commissioner to all the material facts and issues necessary to a proper determination of the questions presented.

No appeal from the decision of the register and receiver will be received at the General Land Office unless forwarded through the local officers in the manner herein prescribed.

The report should be forwarded at once upon the filing of the appeal, except in contested cases after regular hearing, when, unless all parties request its earlier transmission, it should not be made until the expiration of the thirty days included in the notice, in order that all parties may have full opportunity to examine the record and prepare their argument upon the questions at issue. All documents once received must be kept on file with the cases, and no papers will be allowed under any circumstances to be removed from such files or taken from the custody of the register and receiver; but access to the same under proper rules, so as not to interfere with necessary public business, should be permitted to the parties in interest, under the supervision of those officers.

Upon any question relating to the disposal of the public lands, appeal from the decision of the Commissioner of the General Land Office will lie to the Secretary of the Interior (Revised Statutes, sections 441, 2273), except in cases of interlocutory orders and decisions and orders for hearing, or other matters resting in the sound discretion of the Commissioner. Such latter cases constitute matters of exception, which should be noted, and they will be considered by the Secretary on review.

The appeal is required to be made in writing, fairly and specifically stating the points of exception to the decision appealed from, and must be filed either with the register and receiver for transmission, or with the Commissioner, within sixty days from receipt, by the party or his attorney, of the notice of the decision.

After appeal is filed, the fact of its receipt and pendency will be promptly communicated to the district office and to the parties, and thirty days from service of such notice will be allowed for the filing of argument on the points involved in the controversy. At the expiration of the time prescribed, the papers and record will be forwarded to the Secretary of the Interior. All arguments shall be filed with the Commis-

sioner within the time specified in the notice, in order that they may be referred to and considered in transmitting the case to the Secretary, if deemed expedient by the Commissioner. Examination of cases on appeal to the Secretary will be facilitated by filing in printed form such argument as it is desired to have considered.

Decisions of the Commissioner not appealed from within the period prescribed become final, and the case will be regularly closed. (Revised Statutes, section 2273.)

The decision of the Secretary is necessarily final, so far as respects the action of the Executive.

REGISTERS AND RECEIVERS.

It is the duty of the registers and receivers to be in attendance at their offices, and give proper facilities and information to persons applying for lands.

Within three days from the close of each month they are required to make out and transmit to the General Land Office a statement of the business of their respective offices for the preceding month.

These reports are in the form of abstracts of pre-emption declarations and of soldiers' declarations filed, abstracts of lands sold, abstracts of homesteads entered, abstracts of timber culture entries allowed, abstracts of military bounty land warrants and of agricultural college scrip located, accompanied by the certificates of purchase, receivers' receipts, homestead and timber culture applications and affidavits, military bounty land warrants and agricultural college scrip surrendered as satisfied, and the certificates of location thereof. Names of parties must be clearly and legibly written in these papers to correspond with the signature to every application; and when spelled in two or more ways, or illegibly written by the person signing, the register must ascertain by proper inquiry the correct orthography and certify to the same upon the margin of the certificate.

The abstracts, after being carefully examined by the register and receiver, are to be certified by them as correct and as in conformity with the papers in the entries or locations embraced therein and with their records, which papers, abstracts, and records must agree with each other.

The receiver is required also to render promptly a *monthly account of all moneys received*, showing the balance due the government at the close of each month.

At the end of every *quarter* he must also transmit a *quarterly account* as receiver; upon the several accounts an adjustment is here made, and submitted to the Treasury Department for final settlement.

He must also render a quarterly disbursing account of all moneys expended.

He is required to deposit the moneys received by him at some depository designated by the Secretary of the Treasury, when the amount on hand shall have reached the sum of *one thousand dollars*; and in no case is he authorized, without special instructions, to hold a larger amount in his hands.

Registers and receivers of the land offices are not authorized by law to make any charges for their services in accepting or entering pre-emption or homestead claims, other than such as are herein set forth. By section 2242 of the Revised Statutes it is, among other things, provided that upon satisfactory proof that either of said officers has charged

or received fees or other rewards not authorized by law, he shall forthwith be removed from office. To them, their official clerks and employés, and to those intimately and confidentially related to them, or their official clerks and employés, it is forbidden to make entries of public lands at the district offices with which they are respectively connected.

Laws and instructions relating to mining claims form the subject of a separate circular.

J. A. WILLIAMSON,
Commissioner of the General Land Office.

[No. 1.]

REVISED STATUTES OF THE UNITED STATES.

TITLE XI.—DEPARTMENT OF THE INTERIOR.—CH. 3.

* * * * *

Duties of Commissioner.
25 April, 1812, c. 68, s. 1, v.
2, p. 716.
4 July, 1836, c. 352, s. 1, v.
5, p. 107.

SEC. 453. The Commissioner of the General Land-Office shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and, also, such as relate to private claims of land, and the issuing of patents for all agents [grants] of land under the authority of the Government.

* * * * *

TITLE XXXII.—THE PUBLIC LANDS.—CH. 2.

REGISTERS AND RECEIVERS.

Appointment of registers and receivers.
See all acts establishing land-districts.

SECTION 2234. There shall be appointed by the President, by and with the advice and consent of the Senate, a register of the land-office and a receiver of public moneys, for each land-district established by law.

Residence of register and receiver.
See all acts establishing land-districts.

SEC. 2235. Every register and receiver shall reside at the place where the land-office for which he is appointed is directed by law to be kept.

Bond of register and receiver.

10 May, 1800, c. 55, ss. 1, 6, v. 2, pp. 73, 75. 3 March, 1853, c. 145, s. 5, v. 10, p. 245.

SEC. 2236. Every register and receiver shall, before entering on the duties of his office, give bond in the penal sum of ten thousand dollars, with approved security, for the faithful discharge of his trust.

Salaries of register and receiver.

30 May, 1862, c. 86, s. 6, v. 12, p. 409. 20 April, 1818, c. 123, v. 3, p. 466.

SEC. 2237. Every register and receiver shall be allowed an annual salary of five hundred dollars.

Fees and commissions of register and receiver.
4 Sept., 1841, c. 16, s. 12, v. 5, p. 456. 21 Mar., 1864, c. 38, s. 4, v. 13, p. 35.

SEC. 2238. Registers and receivers, in addition to their salaries, shall be allowed each the following fees and commissions, namely:

First. A fee of one dollar for each declaratory statement filed, and for services in acting on pre-emption claims.

20 April, 1818, c. 123, v. 3, p. 466. Second. A commission of one per centum on all moneys received at each receiver's office.

21 March, 1864, c. 38, s. 2, v. 13, p. 35. 20 May, 1862, c. 75, s. 6, v. 12, p. 353. 15 July, 1870, c. 294, s. 25, v. 16, p. 320.

Third. A commission to be paid by the homestead applicant, at the time of entry, of one per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor issued as the basis of a patent.

3 March, 1873, c. 277, s. 6, v. 17, p. 606. Fourth. The same commission on lands entered under any law to encourage the growth of timber on western prairies, as allowed when the like quantity of land is entered with money.

22 March, 1852, c. 19, s. 2, v. 10, p. 4. 2 July, 1862, c. 130, s. 7, v. 12, p. 505. Fifth. For locating military bounty-land warrants issued since the eleventh day of February, eighteen hundred and forty-seven, and for locating agricultural college land-

scrip, the same commission to be paid by the holder or assignee of each warrant or scrip, as is allowed for sales of the public lands for cash, at the rate of one dollar and twenty-five cents per acre.

Sixth. A fee, in donation cases, of five dollars for each final certificate for one hundred and sixty acres of land; ten dollars for three hundred and twenty acres; and fifteen dollars for six hundred and forty acres.

Seventh. In the location of lands by States and corporations under grants from Congress for railroads and other purposes, (except for agricultural colleges,) a fee of one dollar for each final location of one hundred and sixty acres; to be paid by the State or corporation making such location.

Eighth. A fee of five dollars per diem for superintending public-land sales at their respective offices; [and to each receiver, mileage in going to and returning from depositing the public moneys received by him.]*

Ninth. A fee of five dollars for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties.

Tenth. Registers and receivers are allowed, jointly, at the rate of fifteen cents per hundred words for testimony reduced by them to writing for claimants, in establishing pre-emption and homestead rights.

Eleventh. A like fee as provided in the preceding subdivision when such writing is done in the land-office, in establishing claims for mineral lands.

Twelfth. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana, are each entitled to collect and receive fifty per centum on the fees and commissions provided for in the first, third, and tenth subdivisions of this section.

SEC. 2239. The register for any consolidated land-district, in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts for individuals, or furnishing any other record information respecting public lands or land-titles in his consolidated land-district, such fees as are properly authorized by the tariff existing in the local courts of his district; and the receiver shall receive his equal share of such fees, and it shall be his duty to aid the register in the preparation of the transcripts, or giving the desired record information.

SEC. 2240. The compensation of registers and receivers, including salary, fees, and commissions, shall in no case exceed in the aggregate three thousand dollars a year, each; and no register or receiver shall receive for any one quarter or fractional quarter more than a pro-rata allowance of such maximum.

SEC. 2241. Whenever the amount of compensation received at any land-office exceeds the maximum allowed by law to any register or receiver, the excess shall be paid into the Treasury, as other public moneys.

SEC. 2242. No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and, on satisfactory proof that either

30 May, 1862, c. 36, s. 6, v. 12, p. 403.

1 July, 1864, c. 196, s. 1, v. 13, p. 335.

24 April, 1820, c. 51, s. 5, v. 3, p. 567.

10 May, 1872, c. 152, s. 12, v. 17, p. 95.

21 March, 1864, c. 38, s. 4, v. 13, p. 35.

10 May, 1872, c. 152, s. 12, v. 17, p. 95.

21 March, 1864, c. 38, s. 6, v. 13, p. 35, and several acts establishing land offices for Utah, Wyoming, and Montana.

Fees of register and receiver for consolidated land offices.

18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.

Maximum of compensation for registers and receivers.

21 March, 1864, c. 38, s. 6, v. 13, p. 36. 20 April, 1818, c. 123, v. 3, p. 466. 20 May, 1862, c. 75, s. 6, v. 12, p. 393. 30 May, 1862, c. 58, s. 6, v. 12, p. 403. 1 July, 1864, c. 196, s. 1, v. 13, p. 335. 22 March, 1852, c. 19, s. 3, v. 10, p. 4. 2 July, 1862, c. 130, s. 7, v. 12, p. 505. 2 Feb., 1859, c. 19, v. 11, p. 378. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131. —U. S. vs. Babbit, 1 Bl., 55.

Excess of compensation to be paid into Treasury.

3 March, 1853, c. 97, s. 1, v. 10, p. 204. 18 Feb., 1861, c. 38, ss. 1, 3, v. 12, p. 131.

Illegal fees: Penalty. 22 March, 1852, c. 19, s. 3, v. 10, p. 4. 17 July, 1854, c. 84, s. 6, v. 10, p. 306.

* Part in brackets repealed. Actual expenses only allowed. Act June 16, 1874, Stats., vol. 18, p. 72.

of such officers has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

Compensation of registers and receivers, when to commence.

24 Feb., 1855, c. 124, s. 3, v. 10, p. 615.

on the discharge of their duties.

Duration of office of registers and receivers.

15 May, 1820, c. 102, s. 1, v. 3, p. 582.

able at pleasure.

Monthly and quarterly returns of receivers.

4 July, 1836, c. 352, s. 9, v. 5 p. 111.

Oaths administered by registers and receivers.

12 June, 1840, c. 35, s. 5, p. 384.

Penalty for false information by register.

4 July, 1836, c. 352, s. 13, v. 5, p. 112.

SEC. 2243. The compensation of registers and receivers, both for salary and commissions, shall commence and be calculated from the time they, respectively, enter

SEC. 2244. All registers and receivers shall be appointed for the term of four years, but shall be removable at pleasure.

SEC. 2245. The receivers shall make to the Secretary of the Treasury monthly returns of the moneys received in their several offices, and pay over such money pursuant to his instructions. And they shall also make to the Commissioner of the General Land Office like monthly returns, and transmit to him quarterly accounts-current of the debits and credits of their several offices with the United States.

SEC. 2246. The register or receiver is authorized, and it shall be their duty, to administer any oath required by law or the instructions of the General Land-Office, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath.

SEC. 2247. If any person applies to any register to enter any land whatever, and the register knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such register shall be liable therefor to the person so applying, for \$5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.

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TITLE XXXII.—THE PUBLIC LANDS.—CH. 4.

PRE-EMPTIONS.

Lands subject to pre-emption.

2 June, 1862, c. 94, s. 1, v. 12, p. 413.

extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

Lands not subject to pre-emption.

4 Sept., 1841, c. 16, s. 10, v. 5, p. 452.

to the rights of pre-emption, to-wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Wilcox vs. Jackson, 13 Pet., 498; Josephs vs. U. S., 1 N. and H., 197; Turner vs. American Baptist Union, 5 McLenn, 344; U. S. vs. Railroad Bridge Co., 6 McLean, 517; Russell vs. Beebe, Hamps., 704.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

Persons entitled to pre-emption.

4 Sept., 1841, c. 16, s. 10, v. 5, p. 452.

U. S. vs. Fitzgerald, 15 Pet., 407; Lytle vs. Arkansas, 9 How., 333; Cunningham vs. Ashley, 14 How., 377; Barnard's Heirs vs. Ashley's Heirs, 18 How., 41; Garland vs. Wynn, 20 How., 6; Harkness vs. Underhill, 1 Bl., 322; Witherspoon vs. Duncan, 4 Wall., 218.

SEC. 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

SEC. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to-wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

SEC. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who inhabits and im-

SEC. 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

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First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

SEC. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who inhabits and im-

proves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the register of the land-office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding 160, or a quarter section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land.

SEC. 2260. The following classes of persons, unless otherwise specially provided for by law, shall not acquire any right of pre-emption under the provisions of the preceding sections, to-wit:

Persons not entitled to pre-emption.
4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

First. No person who is the proprietor of 320 acres of land in any State or Territory.

Second. No person who quits or abandons his residence on his own land to reside on the public land in the same State or Territory.

SEC. 2261. No person shall be entitled to more than one pre-emptive right by virtue of the provisions of section 2259; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

Limitation of pre-emption right.
4 Sept., 1841, c. 16, s. 10, v. 5, p. 455. 3 March, 1843, c. 86, s. 4, v. 5, p. 620.

SEC. 2262. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the receiver or register of the land-district in which the land is situated that he has never had the benefit of any right of pre-emption under section 2259; that he is not the owner of 320 acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person whatever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; and if any person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, for a valuable consideration, shall be null and void, except as provided in section 2288. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land-office of such district, and to transmit a duplicate copy to the General Land-Office, either of which shall be good and sufficient evidence that such oath was administered according to law.

Oath of pre-emptionist where filed, penalty.
4 Sept., 1841, c. 16, s. 13, v. 5, p. 456.

SEC. 2263. Prior to any entries being made under and by virtue of the provisions of section 2259, proof of the settlement and improvement thereby required shall be made to the satisfaction of the register and receiver of the land-district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

Proof of settlement; assignment of pre-emption rights.
4 Sept., 1841, c. 16, s. 12, v. 5, p. 456.
Lytle vs. Arkansas, 9 How., 333; *Cunningham vs. Ashley*, 14 How., 377; *Barnard's Heirs vs. Ashley's Heirs*, 18 How., 44; *Garland vs. Wynn*, 20 How., 6; *Lytle vs. Arkansas*, 22 How., 193; *Harkness vs. Underhill*, 1 Bl., 325; *Lindsey vs. Hawse*, 2 Bl., 554; *Myers vs. Croft*, 13 Wall., 291.

SEC. 2264. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after the date of such settlement, file with the register of the proper district a written statement, describing the land settled upon, and declaring his

Statement to be filed by settler with intent to purchase, on lands subject to private entry.
4 Sept., 1841, c. 16, s. 15, v. 5, p. 457.

intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.

Claim filed by settler on land not proclaimed for sale. 3 March, 1843, c. 86, s. 5, v. 5, p. 620.

Johnson vs. Tawsley, 13 Wall., 72

SEC. 2265. Every claimant under the pre-emption law for land not yet proclaimed for sale is required to make known his claim in writing to the register of the proper land-office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.

Declaratory statement of settlers on unsurveyed lands, when filed. 30 May, 1862, c. 86, s. 7, v. 12, p. 410.

SEC. 2266. In regard to settlements which are authorized upon unsurveyed lands, the pre-emption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land-office of the approved plat of the township embracing such pre-emption settlement.

Pre-emption claimants: time of making proof and payment.

14 July, 1870, c. 272, s. 2, v. 16, p. 279. 3 March, 1871, Res. 52, v. 16, p. 601.

Extension of time in certain cases to persons in military and naval service.

21 March, 1864, c. 38, s. 5, v. 13, p. 35.

SEC. 2267. All claimants of pre-emption rights, under the two preceding sections, shall, when no shorter time is prescribed by law, make the proper proof and payment for the land claimed within thirty months after the date prescribed therein, respectively, for filing their declaratory notices, has expired.

SEC. 2268. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land-office to make before the register or receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the register of the land-office for the district in which his settlement is made.

Death before consummating claim; who to complete, &c.

3 March, 1843, c. 86, s. 2, v. 5, p. 620.

SEC. 2269. Where a party entitled to claim the benefits of the pre-emption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the executor or administrator of the estate of such party, or one of his heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon, shall cause the title to inure to such heirs, as if their names had been specially mentioned.

Non-compliance with laws caused by vacancy in office of register or receiver not to affect, &c.

3 March, 1843, c. 86, s. 6, v. 5, p. 620.

SEC. 2270. Whenever the vacancy of the office either of register or receiver, or of both, renders it impossible for the claimant to comply with any requisition of the pre-emption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

SEC. 2271. The provisions of this chapter shall be so construed as not to confer on any one a right of pre-emption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land-Office, on account of any alleged defect therein.

No pre-emption of lands sold but not confirmed by Land-Office.
26 Aug., 1842, c. 205, v. 5, p. 534.

SEC. 2272. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by pre-emption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of pre-emption.

Purchase by private entry after expiration of pre-emption right.
3 March, 1843, c. 86, s. 9, v. 5, p. 621.

SEC. 2273. When two or more persons settle on the same tract of land, the right of pre-emption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of pre-emption arising between different settlers shall be determined by the register and receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of pre-emption, shall be made to the Commissioner of the General Land-Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

When more than one settler, rights of, appeals to Commissioner.
4 Sept., 1841, c. 16, s. 11, v. 5, p. 456. 12 June, 1858, c. 154, s. 10, v. 11, p. 326.
Barnard vs. Ashley, 18 How., 43; Garland vs. Wynn, 20 How., 6; Lindsey vs. Hawse, 2 Bl. 554; Minnesota vs. Batchelder, 1 Wall. 109; Johnson vs. Tawsley, 13 Wall., 72.

SEC. 2274. When settlements have been made upon agricultural public lands of the United States prior to the survey thereof, and it has been or shall be ascertained, after the public surveys have been extended over such lands, that two or more settlers have improvements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land-office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said land after a patent is issued to him, and, after making such contract, to file a declaratory statement in his own name, and prove up and pay for said land, and proof of joint occupation by himself and others, and of such contract with them made, shall be equivalent to proof of sole occupation and pre-emption by the applicant: *Provided*, That in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

Settlements of two or more persons on same subdivision before survey.
3 March, 1873, c. 283, s. 1, v. 17, p. 609.

SEC. 2275. Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

Settlements before survey on sections 16 or 36, deficiencies thereof.
26 Feb., 1859, c. 58, v. 11, p. 385.

SEC. 2276. The lands appropriated by the preceding section shall be selected, within the same land-district, in accordance with the following principles of adjustment, to-wit: For each township or fractional township containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township containing a greater quantity of land

Selections to supply deficiencies of school lands.
26 Feb., 1859, c. 58, v. 11, p. 385. 20 May, 1826, c. 83, s. 1, v. 4, p. 173.

than one-half, and not more than three-quarters, of a township, three-quarters of a section; for a fractional township containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter, of a township, one-quarter section of land.

Military bounty-land warrants receivable for pre-emption payments.
22 March, 1852, c. 19, s. 1, v. 10, p. 3.

SEC. 2277. All warrants for military bounty-lands, which are issued under any law of the United States, shall be received in payment of pre-emption rights at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified; but where the land is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Agricultural-college scrip receivable in payment of pre-emption.
1 July, 1870, c. 196, v. 16, p. 186.

SEC. 2278. Agricultural-college scrip, issued to any State under the act approved July second, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as authorized in case of military bounty-land warrants, by the preceding section.

Pre-emption limit along railroad lines.
3 March, 1853, c. 143, v. 10, p. 244.

SEC. 2279. No person shall have the right of pre-emption to more than one hundred and sixty acres along the line of railroads within the limits granted by any act of Congress.

Pre-emption rights on lands reserved for grants found invalid.
31 March, 1853, c. 143, v. 10, p. 244.

SEC. 2280. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants, which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of pre-emption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

Pre-emption rights on lands reserved for railroads.
27 March, 1854, c. 25, v. 10, p. 269. 14 July, 1870, c. 272, s. 2, v. 16, p. 279.

SEC. 2281. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to pre-emption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

Sale of land not to be delayed, &c.
4 Sept., 1841, c. 16, s. 14, v. 5, p. 437.

SEC. 2282. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

Certain lands in Kansas, how to be sold.
9 May, 1872, c. 149, s. 1, v. 17, p. 90.

SEC. 2283. The Usage Indian trust and diminished-reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal, for cash only, to actual settlers, in quantities not exceeding one hundred and sixty acres, or one quarter-section to each, in compact form, in accordance with the general principles of the pre-emption laws, under the direction of the Commissioner of the General Land-Office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands, and shall pay for the tracts, respectively, settled upon within one year from date of settlement where the plat of survey is on file at that date, and within one year from the filing of the township-plat in the district office where such plat is not on file at date of settlement.

Transfer of above claims prior to, &c., subsequent right of entry.
9 May, 1872, c. 149, s. 3, v. 17, p. 90.

SEC. 2284. The sale or transfer of his claim upon any portion of these lands by any settler prior to the twenty-sixth day of April, eighteen hundred and seventy-one,

shall not operate to preclude the right of entry, under the provisions of the preceding section, upon another tract settled upon subsequent to such sale or transfer; but satisfactory proof of good faith must be furnished upon such subsequent settlement.

SEC. 2285. The restrictions of the pre-emption laws, contained in sections twenty-two hundred and sixty and twenty-two hundred and sixty-one, shall not apply to any settler on the Osage Indian trust and diminished-reserve lands in the State of Kansas, who was actually residing on his claim on the ninth day of May, eighteen hundred and seventy-two.

Pre-emption restrictions not to apply to certain lands in Kansas.
9 May, 1872, c. 149, s. 3, v. 17, p. 90.

SEC. 2286. There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one quarter-section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each such quarter-section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

Pre-emption by counties for seats of justice.
26 May, 1824, c. 169, s. 1, v. 4, p. 50.

SEC. 2287. Any bona-fide settler under the homestead or pre-emption laws of the United States who has filed the proper application to enter not to exceed one quarter-section of the public lands in any district land-office, and who has been subsequently appointed a register or receiver, may perfect the title to the land under the pre-emption laws by furnishing the proofs and making the payments required by law, to the satisfaction of the Commissioner of the General Land-Office.

Where claimant of entry becomes register or receiver.
20 April, 1871, c. 21, s. 16, v. 17, p. 10.

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, and for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

Right of transfer of settlers under homestead or pre-emption laws for certain public purposes.
Act of 3 March, 1873, c. 266, v. 17, p. 602.

TITLE XXXII.—THE PUBLIC LANDS.—CH. 5.

HOMESTEADS.

SEC. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section or a less quantity of unappropriated public lands, upon which such person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. And every person owning and residing on land may, under the provisions of this sec-

Who may enter certain unappropriated public lands.
20 May, 1862, c. 75, s. 1, v. 12, p. 592.

tion, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

Mode of procedure.
21 June, 1866, c. 127, s. 2,
v. 14, p. 67. 20 May, 1862,
c. 73, s. 2, v. 12, p. 392. 21
March, 1864, c. 38, s. 2, v. 13,
p. 35.
SEC. 2290. The person applying for the benefit of the preceding section shall, upon application to the register of the land-office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; and upon filing such affidavit with the register or receiver, on payment of five dollars when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he shall thereupon be permitted to enter the amount of land specified.

Certificate and patent,
when given and issued.
21 June, 1866, c. 127, s. 2,
v. 14, p. 67.
SEC. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law.

When rights inure to the
benefit of infant children.
21 June, 1866, c. 127, s. 2,
v. 14, p. 67.
SEC. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

Persons in military or na-
val service, when and be-
fore whom to make affidavit.
21 March, 1864, c. 38, s. 4,
v. 13, p. 35.
SEC. 2293. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land-office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the register or receiver; and upon such affidavit being filed with the register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

SEC. 2294. In any case in which the applicant for the benefit of the homestead, and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona-fide improvement and settlement have been made, is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land-office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fee and commissions, to the register and receiver.

When persons may make affidavit before clerk of court, 21 March, 1864, c. 35, s. 3. v. 13, p. 35.

SEC. 2295. The register of the land-office shall note all applications under the provisions of this chapter on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land-Office, together with the proof upon which they have been founded.

Record of applications. 20 May, 1862, c. 75, s. 3, v. 12, p. 393.

SEC. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

Homestead lands not to be subject to prior debts. 20 May, 1862, c. 75, s. 4, v. 12, p. 393.

SEC. 2297. If, at any time after the filing of the affidavit, as required in section 2290, and before the expiration of the five years mentioned in section 2291, it is proved, after due notice to the settler, to the satisfaction of the register of the land-office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government.

When lands entered for homestead revert to government. 20 May, 1862, c. 75, s. 5, v. 12, p. 393.

SEC. 2298. No person shall be permitted to acquire title to more than one quarter-section under the provisions of this chapter.

Limitation of amount entered for homestead. 20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2299. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with existing pre-emption rights; and all persons who may have filed their applications for a pre-emption right prior to the 20th day of May, 1862, shall be entitled to all the privileges of this chapter.

Existing pre-emption rights not impaired. 20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

What minors may have the privileges of this chapter. 20 May, 1862, c. 75, s. 6, v. 12, p. 393.

SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who has availed himself of the benefits of section 2289, from paying the minimum price for the quantity of land so entered, at any time before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting pre-emption rights.

Payments before expiration of five years, rights of applicant. 20 May, 1862, c. 75, s. 8, v. 12, p. 393.

SEC. 2302. No distinction shall be made in the construction or execution of this chapter on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

No distinction on account of race or color, &c. 21 June, 1866, c. 127, s. 1. v. 14, p. 67.

* SEC. 2303. All the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of in no other manner than according to the

21 June, 1866, c. 127, s. 1, v. 14, p. 67. Repealed. 22 June, 1876, c. 165, v. 19, p. 73.

* Repealed by act of June 22, 1876.

terms and stipulations contained in the preceding provisions of this chapter.

Soldiers' and sailors' homestead.
8 June, 1872, c. 338, s. 1, v. 17, p. 333.

SEC. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an act approved February 13, 1862, and every seaman, marine, and officer who has served in the Navy of the United States, or in the Marine Corps, during the rebellion, for ninety days, and who was honorably discharged, and has remained loyal to the Government, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding 160 acres, or one quarter-section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public land along the line of any railroad or other public work, not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead, and filling his declaratory statement, within which to make his entry and commence his settlement and improvement.

Deduction of military and naval service from time, &c.
8 June, 1872, c. 338, s. 1, v. 17, p. 333.

SEC. 2305. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore required to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements.

Persons who have entered less than 160 acres, rights of.
8 June, 1872, c. 338, s. 2, v. 17, p. 333.

SEC. 2306. Every person entitled, under the provisions of section 2304, to enter a homestead who may have heretofore entered, under the homestead laws, a quantity of land less than 160 acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed 160 acres.

Widow and minor children of persons entitled to homestead, &c.
8 June, 1872, c. 338, s. 3, v. 17, p. 333.

SEC. 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section 2304, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

Actual service in the Army or Navy equivalent to residence, &c.
8 June, 1872, c. 338, s. 4, v. 17, p. 333.

SEC. 2308. Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead

laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.

SEC. 2309. Every soldier, sailor, marine, officer, or other person coming within the provisions of section 2304, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

Who may enter by agent.
8 June, 1872, c. 333, s. 5, v.
17, p. 334.

SEC. 2310. Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians residing in the county of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.

Chiefs, &c., of Stockbridge
Munsees, homestead rights
of.
3 March, 1865, c. 127, s. 4,
v. 13, p. 562.

SEC. 2311. The homestead secured, by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States, as provided in the following section:

Exemption of homestead
of Stockbridge Munsees.
3 March, 1865, c. 127, s. 4,
v. 13, p. 562.

SEC. 2312. Whenever any of the chiefs, warriors, or heads of families of the tribes mentioned in section twenty-three hundred and ten, having filed with the clerk of the district court of the United States a declaration of his intention to become a citizen of the United States, and to dissolve all relations with any Indian tribe, two years previous thereto, appears in such court, and proves to the satisfaction thereof, by the testimony of two citizens, that for five years last past he has adopted the habits of civilized life; that he has maintained himself and family by his own industry; that he reads and speaks the English language; that he is well disposed to become a peaceable and orderly citizen; and that he has sufficient capacity to manage his own affairs; the court may enter a decree admitting him to all the rights of a citizen of the United States, and thenceforth he shall be no longer held or treated as a member of any Indian tribe, but shall be entitled to all the rights and privileges, and be subject to all the duties and liabilities to taxation of other citizens of the United States. But nothing herein contained shall be construed to deprive such chiefs, warriors, or heads of families of annuities to which they are or may be entitled.

Stockbridge Munsees be-
coming citizens.
3 March, 1865, c. 127, s. 4,
v. 13, p. 562.

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TITLE XXXII.—THE PUBLIC LANDS.—CH. 7.

* * * * *

SEC. 2362. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

Purchase-money refunded
where sale cannot be con-
firmed.
12 Jan., 1825, c. 5, v. 4, p.
80. 28 Feb., 1859, c. 64, s. 1,
v. 11, p. 387.

Refunding in certain cases;
how done.

28 Feb., 1859, c. 64, s. 2, v.
11, p. 388.

SEC. 2363. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust-fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust-fund, to repay the purchase-money to the parties entitled thereto.

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TITLE XXXII.—THE PUBLIC LANDS.—CH. 8.

RESERVATION AND SALE OF TOWN-SITES ON THE PUBLIC LANDS.

Town-sites to be reserved.
3 March, 1863, c. 80, s. 1, v.
12, p. 754.

SEC. 2380. The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town-sites on the shores of harbors, at the junction of rivers, important port-ages, or any natural or prospective centers of population.

Reservations to be surveyed into lots.

3 March, 1863, c. 80, s. 2, v.
12, p. 754.

SEC. 2381. When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the register and receiver of the land-office in the district in which the reservation may be situated, in accordance with the instructions of the Commissioner of the General Land-Office.

Town or city sites in public lands.

1 July, 1864, c. 205, s. 2, v.
13, p. 343.

SEC. 2382. In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land-Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land-district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement, and testimony in the General Land-Office, it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from

time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property. But any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements, shall be entitled to prove up and purchase the same as a pre-emption, at such minimum, at any time before the day fixed for the public sale.

SEC. 2383. When such cities or towns are established upon unsurveyed lands, it may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

When towns established upon unsurveyed lands, extension limits, how adjusted.
1 July, 1864, c. 205, s. 3, v. 13, p. 344.

SEC. 2384. If within twelve months from the establishment of a city or town on the public domain, the parties interested refuse or fail to file in the General Land-Office a transcript map, with the statement and testimony called for by the provisions of section twenty-three hundred and eighty-two, it may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by such provisions, with this exception, that they shall each be at an increase of fifty per centum on the minimum of ten dollars per lot.

When transcript maps of town are not filed in twelve months, proceedings by Secretary of the Interior.
1 July, 1864, c. 205, s. 4, v. 13, p. 344.

SEC. 2385. In the case of any city or town, in which the lots may be variant as to size from the limitation fixed in section twenty-three hundred and eighty-two, and in which the lots and buildings, as municipal improvements, cover an area greater than six hundred and forty acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim under the provisions of that section; but the minimum price of each lot in such city or town, which may contain a greater number of square feet than the maximum named in that section, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish.

Where size of lots or town plat vary from general rule.
3 March, 1865, c. 107, s. 2, v. 13, p. 530.

SEC. 2386. Where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town-lots to be acquired shall be subject to such recognized possession and the necessary use thereof; but nothing contained in this section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States.

Title to lots subject to mineral rights.
3 March, 1865, c. 107, s. 2, v. 13, p. 530.

SEC. 2387. Whenever any portion of the public lands have been or may be settled upon and occupied as a town-site, not subject to entry under the agricultural pre-emption laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land-office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated.

Entry of town authorities in trust for occupants.
2 March, 1867, c. 177, v. 14, p. 541.

SEC. 2388. The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town-site shall be

Entry under preceding section, when to be made.
2 March, 1867, c. 177, v. 14, p. 541.

filed with the register of the proper land-office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land-office may not have been established, such declaratory statements may be filed with the surveyor-general of the surveying-district in which the lands are situated, who shall transmit the same to the General Land-Office.

Entry in proportion to
number of inhabitants.
2 March, 1867, c. 177, v. 14,
p. 541.

SEC. 2389. If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; but for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed.

Authorities of Salt Lake
City, rights of, as to entry.
1 July, 1870, c. 193, v. 16,
p. 183.

SEC. 2390. The words "not exceeding five thousand in all," in the preceding section, shall not apply to Salt Lake City, in the Territory of Utah; but such section shall be so construed in its application to that city that lands may be entered for the full number of inhabitants contained therein, not exceeding fifteen thousand; and as that city covers school-section number thirty-six, in township number one north, of range number one west, the same may be embraced in such entry, and indemnity shall be given therefor when a grant is made by Congress of sections sixteen and thirty-six, in the Territory of Utah, for school purposes.

Certain acts of trustees to
be void.
2 March, 1867, c. 177, v. 14,
p. 541.

SEC. 2391. Any act of the trustees not made in conformity to the regulations alluded to in section twenty-three hundred and eighty-seven shall be void.

No title acquired to gold
mines, &c., or to mining-
claims, &c.
2 March, 1867, c. 177, v. 14,
p. 541. 8 June, 1868, c. 53,
v. 15, p. 67.

SEC. 2392. No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinnabar, or copper; or to any valid mining-claim or possession held under existing laws.

Military or other reserva-
tions, &c.
2 March, 1867, c. 177, v. 14,
p. 541.

SEC. 2393. The provisions of this chapter shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the Land-Office by title derived from the Crown of Spain, or otherwise.

Inhabitants of towns on
public lands, right of, to en-
ter.
8 June, 1868, c. 53, v. 15, p.
67.

SEC. 2394. The inhabitants of any town located on the public lands may avail themselves, if the town authorities choose to do so, of the provisions of sections twenty-three hundred and eighty-seven, twenty-three hundred and eighty-eight, and twenty-three hundred and eighty-nine; and in addition to the minimum price of the lands embracing any town-site so entered, there shall be paid by the parties availing themselves of such provisions all costs of surveying and platting any such town-site, and expenses incident thereto incurred by the United States, before any patent issues therefor; but nothing contained in the sections herein cited shall prevent the issuance of patents to persons who have made or may hereafter make entries, and elect to proceed under other laws relative to town-sites in this chapter set forth.

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TITLE XXXII.—THE PUBLIC LANDS.—CH. 11.

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SEC. 2450. The Commissioner of the General Land-Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the Treasury, the Attorney-General, and the Commissioner, conjointly, consistently with such principles, all cases of suspended entries of public lands and of suspended pre-emption land-claims, and to adjudge in what cases patents shall issue upon the same.

Cases of "suspended entries of public lands" and "suspended" pre-emption land-claims.
26 June, 1856, c. 47, v. 11, p. 22. 3 Aug., 1846, c. 78, s. 1, v. 9, p. 51. 3 March, 1853, c. 152, s. 1, v. 10, p. 258.

SEC. 2451. Every such adjudication shall be approved by the Secretary of the Treasury and the Attorney-General, acting as a board; and shall operate only to divest the United States of the title of the lands embraced thereby, without prejudice to the rights of conflicting claimants.

Adjudications under above, how approved.
3 Aug., 1846, c. 78, s. 1, v. 9, p. 51.

SEC. 2452. The Commissioner is directed to report to Congress at the first session after any such adjudications have been made a list of the same under the classes prescribed by law, with a statement of the principles upon which each class was determined.

Report of adjudications under preceding sections.
3 Aug., 1846, c. 78, s. 2, v. 9, p. 51.

SEC. 2453. The Commissioner shall arrange his decisions into two classes; the first class to embrace all such cases of equity as may be finally confirmed by the board, and the second class to embrace all such cases as the board reject and decide to be invalid.

Decisions to be arranged into classes.
3 Aug., 1846, c. 78, s. 3, v. 9, p. 51.

SEC. 2454. For all lands covered by claims which are placed in the first class, patents shall issue to the claimants; and all lands embraced by claims placed in the second class shall ipso facto revert to, and become part of, the public domain.

Patents to issue for lands in the first class, and lands in second class to revert to the United States.
3 Aug., 1846, c. 78, s. 4, v. 9, p. 51.

SEC. 2455. It may be lawful for the Commissioner of the General Land-Office to order into market, after due notice, without the formality and expense of a proclamation of the President, all lands of the second class, though heretofore unproclaimed and unoffered, and such other isolated or disconnected tracts or parcels of unoffered lands which, in his judgment, it would be proper to expose to sale in like manner. But public notice of at least thirty days shall be given by the land-officers of the district in which such lands may be situated, pursuant to the directions of the Commissioner.

Commissioner to order into market lands of second class.
3 Aug., 1846, c. 78, s. 5, v. 9, p. 51.

SEC. 2456. Where patents have been already issued on entries which are confirmed by the officers who are constituted the board of adjudication, the Commissioner of the General Land-Office, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such confirmation, to the person who made the entry, his heirs or assigns.

Patents surrendered and new ones issued in certain cases.
3 March, 1853, c. 152, s. 2, v. 10, p. 258.

SEC. 2457. The preceding provisions from section twenty-four hundred and fifty to section twenty-four hundred and fifty-six, inclusive, shall be applicable to all cases of suspended entries and locations, which have arisen in the General Land-Office since the twenty-sixth day of June, eighteen hundred and fifty-six, as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty-land warrants as ordinary entries or sales, including homestead entries and pre-emption locations or cases; where the law has been substantially complied with, and the

Extent of foregoing provisions.
26 June, 1856, c. 47, v. 11, p. 22.

error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or pre-emptor are prejudiced, or where there is no adverse claim.

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Power of Commissioner of
Land-Office to enforce this
Title.

SEC. 2478. The Commissioner of the General Land-Office, under the direction of the Secretary of the Interior, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of this Title not otherwise specially provided for.

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TITLE LXX.—CRIMES.—CH. 4.

Perjury.
30 April, 1790, c. 9, s. 18, v.
1, p. 116. 3 March, 1825, c.
65, s. 13, v. 4, p. 118.
U. S. vs. Passmore, 4 Dall.,
372; U. S. vs. Bailey, 9 Pet.,
238; U. S. vs. Wood, 14 Pet.,
430; U. S. vs. Nickerson, 17
How., 204; U. S. vs. Clark, 1
Gallis, 497; U. S. vs. Ken-
drick, 2 Mas., 69.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [See § 1750.]

[No. 2.]

AN ACT to amend section twenty-two hundred and ninety-one of the Revised Statutes of the United States, in relation to proof required in homestead entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance, required to be made by section twenty-two hundred and ninety-one of the Revised Statutes of the United States, may be made before the judge, or in his absence, before the clerk of any court of record of the county and State, or district and Territory, in which the lands are situated; and if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county in said State or Territory; and the proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made before the register or receiver of the proper land-district; and the same shall be transmitted by such judge, or the clerk of his court, to the register and the receiver, with the fee and charges allowed by law to him; and the register and receiver shall be entitled to the same fees for examining and approving said testimony as are now allowed by law for taking the same.

SEC. 2. That if any witness making such proof, or the said applicant making such affidavit or oath, swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

Approved March 3, 1877.

[No. 3.]

AN ACT for the relief of settlers on the public lands under the pre-emption laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has made a settlement on the public lands under the pre-emption laws, and has subsequent to such settlement changed his filing in pursuance of law to that for a homestead entry upon the same tract of land, shall be entitled to have the time required to perfect his title under the homestead laws computed from the date of his original settlement heretofore made, or hereafter to be made, under the pre-emption laws, subject to all the provisions of the law relating to homesteads.

Approved May 27, 1878.

[No. 4.]

AN ACT to amend an act entitled "An act to encourage the growth of timber on the Western Prairies."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An Act to amend the act entitled 'An Act to encourage the growth of timber on Western Prairies,'" approved March thirteenth, eighteen hundred and seventy-four, be and the same is hereby amended so as to read as follows: That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, who shall plant, protect, and keep in a healthy, growing condition for eight years ten acres of timber, on any quarter-section of any of the public lands of the United States, or five acres on any legal subdivision of eighty acres, or two and one-half acres on any legal subdivision of forty acres or less, shall be entitled to a patent for the whole of said quarter-section, or of such legal subdivision of eighty or forty acres, or fractional subdivision of less than forty acres, as the case may be, at the expiration of said eight years, on making proof of such fact by not less than two credible witnesses, and a full compliance of the further conditions as provided in section two: *Provided, further,* That not more than one quarter of any section shall be thus granted, and that no person shall make more than one entry under the provisions of this act.

SEC. 2. That the person applying for the benefits of this act shall, upon application to the register of the land-district in which he or she is about to make such entry, make affidavit, before the register or the receiver, or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated; which affidavit shall be as follows, to wit: I, ———, having filed my application, number ———, for an entry under the provisions of an act entitled "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies,'" approved ———, 187—, do solemnly swear (or affirm) that I am the head of a family (or over twenty-one years of age), and a citizen of the United States (or have declared my intention to become such); that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for

my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said act; and that I have not heretofore made an entry under this act, or the acts of which this is amendatory. And upon filing said affidavit with said register and said receiver, and on payment of ten dollars if the tract applied for is more than eighty acres, and five dollars if it is eighty acres or less, he or she shall thereupon be permitted to enter the quantity of land specified; and the party making an entry of a quarter-section under the provisions of this act shall be required to break or plow five acres covered thereby the first year, five acres the second year, and to cultivate to crop or otherwise the five acres broken or plowed the first year; the third year he or she shall cultivate to crop or otherwise the five acres broken the second year, and to plant in timber, seeds, or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant in timber, seeds, or cuttings the remaining five acres. All entries of less quantity than one quarter-section shall be plowed, planted, cultivated and planted to trees, tree-seeds, or cuttings, in the same manner and in the same proportion as hereinbefore provided for a quarter-section: *Provided, however,* That in case such trees, seeds, or cuttings shall be destroyed by grasshoppers, or by extreme and unusual drouth, for any year or term of years, the time for planting such trees, seeds, or cuttings shall be extended one year for every such year that they are so destroyed: *Provided further,* That the person making such entry shall, before he or she shall be entitled to such extension of time, file with the register and the receiver of the proper land-office an affidavit, corroborated by two witnesses, setting forth the destruction of such trees, and that, in consequence of such destruction, he or she is compelled to ask an extension of time, in accordance with the provisions of this act: *And provided further,* That no final certificate shall be given, or patent issued, for the land so entered, until the expiration of eight years from the date of such entry; and if, at the expiration of such time, or at any time within five years thereafter, the person making such entry, or, if he or she be dead, his or her heirs or legal representatives, shall prove by two credible witnesses that he or she or they have planted, and, for not less than eight years, have cultivated and protected such quantity and character of trees as aforesaid; that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land.

SEC. 3. That if at any time after the filing of said affidavit, and prior to the issuing of the patent for said land, the claimant shall fail to comply with any of the requirements of this act, then and in that event such land shall be subject to entry under the homestead laws, or by some other person under the provisions of this act: *Provided,* That the party making claim to said land, either as a homestead settler or under this act, shall give, at the time of filing his application, such notice to the original claimant as shall be prescribed by the rules established by the Commissioner of the General Land Office; and the rights of the parties shall be determined as in other contested cases.

SEC. 4. That no land acquired under the provisions of this act shall, in any event, become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

SEC. 5. That the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land-offices shall each be entitled to receive two dollars at the time of entry, and the like sum when the claim is finally established and the final certificate issued.

SEC. 6. That the fifth section of the act entitled "An Act in addition to an act to punish crimes against the United States, and for other purposes," approved March third, eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits required or authorized by this act.

SEC. 7. That parties who have already made entries under the acts approved March third, eighteen hundred and seventy-three, and March thirteenth, eighteen hundred and seventy-four, of which this is amendatory, shall be permitted to complete the same upon full compliance with the provisions of this act; that is, they shall, at the time of making their final proof, have had under cultivation, as required by this act, an amount of timber sufficient to make the number of acres required by this act.

SEC. 8. All acts and parts of acts in conflict with this act are hereby repealed.

Approved June 14, 1878.

[No. 5.]

AN ACT to provide for the sale of desert lands in certain States and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such," and upon payment of twenty-five cents per acre, to file a declaration, under oath, with the register and the receiver of the land-district in which any desert land is situated, that he intends to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same within the period of three years thereafter: *Provided, however,* That the right to the use of water by the person so conducting the same on or to any tract of desert land of six hundred and forty acres shall depend upon *bona fide* prior appropriation; and such right shall not exceed the amount of water actually appropriated and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and if unsurveyed shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: *Provided,* That no person shall be permitted to enter

more than one tract of land, and not to exceed six hundred and forty acres, which shall be in compact form.

SEC. 2. That all lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land-office in which said tract of land may be situated.

SEC. 3. That this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Approved March 3, 1877.

[No. 6.]

AN ACT providing for the sale of saline lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made appear to the register and the receiver of any land-office of the United States that any lands within their district are saline in character, it shall be the duty of said register and said receiver, under the regulation of the General Land Office, to take testimony in reference to such lands to ascertain their true character, and to report the same to the General Land Office; and if, upon such testimony, the Commissioner of the General Land Office shall find that such lands are saline and incapable of being purchased under any of the laws of the United States relative to the public domain, then, and in such case, such lands shall be offered for sale by public auction at the local land-office of the district in which the same shall be situated, under such regulations as shall be prescribed by the Commissioner of the General Land Office, and sold to the highest bidder for cash at a price not less than one dollar and twenty-five cents per acre; and in case said lands fail to sell when so offered, then the same shall be subject to private sale at such land-office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other lands of the United States are sold: *Provided*, That the foregoing enactments shall not apply to any State or Territory which has not had a grant of salines by act of Congress, nor to any State which may have had such a grant, until either the grant has been fully satisfied, or the right of selection thereunder has expired by efflux of time. But nothing in this act shall authorize the sale or conveyance of any title other than such as the United States has, and the patents issued shall be in the form of a release and quit-claim of all title of the United States in such lands.

SEC. 2. That all executive proclamations relating to the sales of public lands shall be published in only one newspaper, the same to be printed and published in the State or Territory where the lands are situated, and to be designated by the Secretary of the Interior.

Approved January 12, 1877.

AN ACT respecting the limits of reservations for town-sites upon the public domain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the existence or incorporation of any town upon the public lands of the United States shall not be held to exclude from pre-emption or homestead entry a greater quantity than twenty-five hundred and sixty acres of land, or the maximum area which may be entered as a town-site under existing laws, unless the entire tract claimed or incorporated as such town-site shall, including and in excess of the area above specified, be actually settled upon, inhabited, improved, and used for business and municipal purposes.

SEC. 2. That where entries have been heretofore allowed upon lands afterward ascertained to have been embraced in the corporate limits of any town, but which entries are or shall be shown, to the satisfaction of the Commissioner of the General Land Office, to include only vacant unoccupied lands of the United States, not settled upon or used for municipal purposes, nor devoted to any public use of such town, said entries, if regular in all respects, are hereby confirmed and may be carried into patent: *Provided*, That this confirmation shall not operate to restrict the entry of any town-site to a smaller area than the maximum quantity of land which, by reason of present population, it may be entitled to enter under section twenty-three hundred and eighty-nine of the Revised Statutes.

SEC. 3. That whenever the corporate limits of any town upon the public domain are shown or alleged to include lands in excess of the maximum area specified in section one of this act, the Commissioner of the General Land Office may require the authorities of such town, and it shall be lawful for them, to elect what portion of said lands, in compact form and embracing the actual site of the municipal occupation and improvement, shall be withheld from pre-emption and homestead entry; and thereafter the residue of such lands shall be open to disposal under the homestead and pre-emption laws. And upon default of said town authorities to make such selection within sixty days after notification by the Commissioner, he may direct testimony respecting the actual location and extent of said improvements, to be taken by the register and receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section one of this act, and declare the remaining lands open to settlement and entry under the homestead and pre-emption laws; and it shall be the duty of the secretary of each of the Territories of the United States to furnish the surveyor-general of the Territory, for the use of the United States, a copy duly certified of every act of the legislature of the Territory incorporating any city or town, the same to be forwarded by such secretary to the surveyor-general within one month from date of its approval.

SEC. 4. It shall be lawful for any town which has made, or may hereafter make, entry of less than the maximum quantity of land named in section twenty-three hundred and eighty-nine of the Revised Statutes to make such additional entry, or entries, of contiguous tracts, which may be occupied for town purposes as when added to the entry or entries theretofore made will not exceed twenty-five hundred and sixty acres: *Provided*, That such additional entry shall not together with all prior entries be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section twenty-three hundred and eighty-nine.

Approved March 3, 1877.

AN ACT for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided*, That nothing herein contained shall defeat or impair any bona-fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona-fide settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further*, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land-office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona-fide purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the sec-

ond section of this act, the register of the land-office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land-office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase-money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land-office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

* * * * *

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved June 3, 1878.

[No. 9.]

AN ACT making appropriations to supply deficiencies in the appropriations for fiscal years ending June thirtieth, eighteen hundred and seventy-five, and prior years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, * * *

SEC. 15. That any Indian, born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall, on making satisfactory proof of such abandonment under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of the act entitled "An Act to secure homesteads to actual settlers on the public domain," approved May twentieth, eighteen hundred and sixty-two, and the acts amendatory thereof, except that the provisions of the eighth section of the said act shall not be held to apply to entries made under this act: *Provided, however*, That the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance, or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor: *Provided*, That any

such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void.

SEC. 16. That in all cases in which Indians have heretofore entered public lands under the homestead law, and have proceeded in accordance with the regulations prescribed by the Commissioner of the General Land Office, or in which they may hereafter be allowed to so enter under said regulations prior to the promulgation of regulations to be established by the Secretary of the Interior under the fifteenth section of this act, and in which the conditions prescribed by law have been or may be complied with, the entries so allowed are hereby confirmed, and patents shall be issued thereon; subject, however, to the restrictions and limitations contained in the fifteenth section of this act in regard to alienation and incumbrance.

Approved March 3, 1875.

[No. 10.]

AN ACT defining the manner in which certain land-scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land claims in the States of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States, certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of the second section of this act; and said certificate of location or scrip shall be subdivided according to the request of the conferee or conferees, and, as nearly as practicable, in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be, assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

SEC. 2. That such scrip shall be received from actual settlers only in payment of pre-emption claims or in commutation of homestead claims, in the same manner and to the same extent as is now authorized by law in the case of military bounty-land warrants.

SEC. 3. That the register of the proper land-office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

SEC. 4. That the provisions of this act respecting the assignment and patenting of scrip and its application to pre-emption and homestead claims shall apply to the indemnity-certificates of location provided for by the act of the second of June, eighteen hundred and fifty-eight, entitled "An Act to provide for the location of certain confirmed private land-claims in the State of Missouri, and for other purposes."

Approved January 28, 1879.

[No. 11.]

AN ACT to grant additional rights to homestead settlers on public lands within railroad limits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, the even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land-grant, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved March 3, 1879.

[No. 12.]

AN ACT to grant additional rights to homestead settlers on public lands within railroad limits in the States of Missouri and Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad, where the even sections have been granted to and received by any railroad company or by such States respectively in aid of any railroad, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has under existing laws taken a homestead on any section within the limits of any railroad grant in said States, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: *Provided*, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year.

Approved July 1, 1879.

[No. 13.]

AN ACT to provide additional regulations for homestead and pre-emption entries of public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for pre-emption or homestead entries, such person shall file with the register of the proper land-office a notice of his or her intention to make such proof, stating therein the description of lands to be entered, and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice the register shall publish a notice, that such application has been made, once a week for the period of thirty days, in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days the claimant shall be entitled to make proof in the manner heretofore provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

Approved March 3, 1879.

[No. 14.]

AN ACT for the relief of settlers on public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when a pre-emption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

SEC. 2. In all cases where any person has contested, paid the land office fees, and procured the cancellation of any pre-emption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: *Provided*, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported.

SEC. 3. That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States Land Office as is now allowed to settlers under the pre-emption laws to put their claims on record, and his right shall relate back to the date of settlement, the same as if he settled under the pre-emption laws.

Approved May 14, 1880.

[No. 15.]

AN ACT to provide for issuing patents for public lands claimed under the pre-emption and homestead laws, in cases where the claimants have become insane.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the pre-emption or homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirement in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.

Approved June 8, 1880.

AN ACT relating to the public lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any lands of the United States shall have been entered and the Government price paid therefor in full no criminal suit or proceeding by or in the name of the United States shall thereafter be had or further maintained for any trespasses upon or for or on account of any material taken from said lands and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim or for agricultural or domestic purposes or for maintaining improvements upon the land of any *bona fide* settler or for or on account of any timber or material taken or used by any person without fault or knowledge of the trespass or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed and conspiracies entered into prior to March first, eighteen hundred and seventy-nine: *And provided further*, That defendants in such suits or proceedings shall exhibit to the proper courts or officer the evidence of such entry and payment and shall pay all costs accrued up to the time of such entry.

SEC. 2. That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the right of those having so entered for homesteads, may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to said lands by paying the Government price therefor, and in no case less than one dollar and twenty-five cents per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

SEC. 3. That the price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty-one, by reason of the grant of alternate sections for railroad purposes is hereby reduced to one dollar and twenty-five cents per acre.

SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March first, eighteen hundred and seventy-nine shall be entitled to the benefit thereof.

Approved June 15, 1880.

AN ACT for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase money, and commissions paid on void entries of public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where it shall,

upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An act to amend an act entitled 'An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States,' and amendments thereto," approved March third eighteen hundred and seventy-three, and now incorporated in section twenty-three hundred and six of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions, and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

SEC. 2. In all cases where homestead or timber-culture on desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excess paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to the heirs or assigns.

SEC. 3. The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated.

SEC. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries.

Approved June 16, 1880.

[No. 4-001.]

CASH APPLICATION.

No. —.

LAND OFFICE AT —, (Date) —, 18—.

I, —, of — county, —, do hereby apply to purchase the — of section —, in township —, of range —, containing — acres, according to the returns of the surveyor general, for which I have agreed with the register to give at the rate of — per acre.

I, —, register of the Land Office at —, do hereby certify that the lot above described contains — acres, as mentioned above, and that the price agreed upon is — per acre.

—, Register.

[No. 4-131.]

CASH RECEIPT.

No. —.

RECEIVER'S OFFICE AT —, (Date) —, 18—.

Received from —, of — county, —, the sum of — dollars and — cents; being in full for the — quarter of section No. —, in township No. —, of range No. —, containing — acres and — hundredths, at \$ — per acre.

\$ —, —, Receiver.

[No. 4-189.]

CASH CERTIFICATE.

No. —.

LAND OFFICE AT —, (Date) —, 18—.

It is hereby certified that, in pursuance of law, —, of — county, State of —, on this day purchased of the register of this office the lot or — of section No. —, in township No. —, of range No. — containing —, acres, at the rate of — dollars and — cents per acre, amounting to — dollars and — cents, for which the said — ha— made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said — shall be entitled to receive a patent for the lot above described.

—, Register.

[No. 4-536.]

PREÈMPTION DECLARATORY STATEMENT.

RECEIPT AND CERTIFICATE.

\$ —

LAND OFFICE AT —, (Date) —, 18—.

Mr. — has this day paid — dollars, the register's and receiver's fees, to file a declaratory statement, the receipt whereof is hereby acknowledged.

—, Receiver.

No. —.

Mr. —, having paid the fees, has this day filed in this office his declaratory statement, No. —, for — of section —, in township —, of range —, containing — acres, settled upon —, 18—, being — offered.

—, Register.

[No. 4-535.]

PREÈMPTION DECLARATORY STATEMENT FOR OFFERED LANDS.

I, —, of —, being —, have, on the — day of —, A. D. 18—, settled and improved the — quarter of section No. —, in township No. —, of range No. —, in the district of lands subject to sale at the land-office at —, and containing — acres, which land has not yet been offered at public sale, and thus rendered subject to private entry; and I do hereby declare my intention to claim the said tract of land as a pre-emption right under section 2259 of the Revised Statutes of the United States.

Given under my hand this — day of —, A. D. 18—.

In presence of —.

[No. 4-534.]

PRE-EMPTION DECLARATORY STATEMENT FOR UNOFFERED LANDS.

I, ———, of ———, being ———, have, since the 1st day of ———, A. D. 18—, settled and improved the ——— quarter of section No. ———, in township No. ———, of range No. ———, in the district of lands subject to sale at the land-office at ———, and containing ——— acres, which land *had been rendered subject to private entry* prior to my settlement thereon; and I do hereby declare my intention to claim the said tract of land as a pre-emption right, under section 2259 of the Revised Statutes of the United States.

Given under my hand this ——— day of ———, A. D. 18—.

In presence of ———.

[No. 4-061.]

AFFIDAVIT REQUIRED OF PRE-EMPTION CLAIMANT.

I, ———, claiming the right of pre-emption, under section 2259 of the Revised Statutes of the United States, to the ——— of section No. ———, of township No. ———, of range No. ———, subject to sale at ———, do solemnly ——— that I have never had the benefit of any right of pre-emption under said section; that I am not the owner of 320 acres of land in any State or Territory of the United States, nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my own exclusive use or benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except myself.

I, ———, of the Land Office at ———, do hereby certify that the above affidavit was subscribed and sworn to before me this ——— day of ———, A. D. 18—.

[No. 4-375.]

PRE-EMPTION PROOF.

TESTIMONY OF CLAIMANT.

———, being called as a witness in ——— own behalf in support of ——— pre-emption claim to the ———, testifies as follows:

Ques. 1. What is your name? (Be careful to give it in full, correctly spelled, in order that it may be here written exactly as you wish it written in the patent which you desire to obtain.)

Ans. ———.

Ques. 2. What is your age?

Ans. ———.

Ques. 3. Are you the head of a family, or a single person; and, if the head of a family, of whom does your family consist?

Ans. ———.

Ques. 4. Are you a native-born citizen of the United States? If not, have you declared your intention to become a citizen, and have you obtained a certificate of naturalization?*

Ans. ———.

Ques. 5. Is the land embraced in your pre-emption claim, above described, included within the limits of an incorporated town; or has it been selected as the site of a city or town, and actually settled and occupied for purposes of trade and business?

Ans. ———.

*In case the party has been naturalized, or has only declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

Ques. 6. Are there any indications of coal, salines, or minerals of any kind on this land? (If so, state what they are, and whether the springs or mineral deposits are valuable.)

Ans. _____.

Ques. 7. Is the land more valuable for agricultural than mineral purposes?

Ans. _____.

Ques. 8. What is your post-office address?

Ans. _____.

Ques. 9. Are you the owner of 320 acres of land in any State or Territory?

Ans. _____.

Ques. 10. Have you left or abandoned a residence on land of your own in this — to reside upon the land above described?

Ans. _____.

Ques. 11. Have you ever filed a pre-emption declaratory statement for other land than that above described? (If so, give, as nearly as you can, the date thereof and description of the land.)

Ans. _____.

Ques. 12. Have you heretofore made a pre-emption entry?

Ans. _____.

Ques. 13. Have you settled upon and improved the land for which you now apply, to sell the same on speculation?

Ans. _____.

Ques. 14. Have you given any mortgage on this land, and have you made any agreement to sell the same?

Ans. _____.

Ques. 15. When did you make settlement on the land, and what constituted your first act of settlement?

Ans. _____.

Ques. 16. What improvements, if any, were on the land at date of your settlement? (If any, state who owned them, and whether they now belong to you.)

Ans. _____.

Ques. 17. What improvements have you made on this land subsequent to your first act of settlement? (Describe them, and state the total value of the improvements owned by you thereon.)

Ans. _____.

Ques. 18. When did you first establish your residence upon the land?

Ans. _____.

Ques. 19. Have you resided upon the land ever since?

Ans. _____.

Ques. 20. What use have you made of the land?

Ans. _____.

Ques. 21. How much of the land, if any, has been broken and cultivated since your settlement?

Ans. _____.

I HEREBY CERTIFY that each question and answer in the foregoing testimony was read to the claimant before — signed — name thereto, and that the same was subscribed and sworn to before me this — day of —, 18—.

_____,
_____.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

“TITLE LXX.—CRIMES.—CH. 4.

“SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed.” [See sec. 1750.]

(The testimony of two witnesses, in this form, taken separately, required in each case.)

PRE-EMPTION PROOF.

TESTIMONY OF WITNESS.

_____, being called as a witness in support of the pre-emption claim of _____ to the _____, testifies as follows:

Ques. 1. What is your post-office address?

Ans. _____.

Ques. 2. What is your occupation?

Ans. _____.

Ques. 3. Are you well acquainted with _____, the claimant in this case, and how long have you known _____?

Ans. _____.

Ques. 4. How old do you know or believe claimant to be?

Ans. _____.

Ques. 5. Is claimant the head of a family, or a single person; and, if the head of a family, of whom does the family consist?

Ans. _____.

Ques. 6. Is claimant a native-born citizen of the United States? (If not, state, if you can, what steps _____ has taken to be naturalized.)

Ans. _____.

Ques. 7. Are you acquainted with the land above described?

Ans. _____.

Ques. 8. Do you live in the vicinity of the land?

Ans. _____.

Ques. 9. Is this land within the limits of an incorporated town, or has it been selected as the site of a city or town, and actually settled and occupied for purposes of trade and business?

Ans. _____.

Ques. 10. Are there any indications of coal, salines, or minerals of any kind on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. _____.

Ques. 11. Is the land more valuable for agricultural than mineral purposes?

Ans. _____.

Ques. 12. Is the claimant the owner of 320 acres of land in any State or Territory? (State your knowledge in this regard.)

Ans. _____.

Ques. 13. Has the claimant left or abandoned a residence on land of _____ own in this _____ to reside upon the land above described? (State your knowledge in this regard.)

Ans. _____.

Ques. 14. Has the claimant ever filed a pre-emption declaratory statement for other land than that above described, or has _____ heretofore made a pre-emption entry? (State your knowledge in this regard.)

Ans. _____.

Ques. 15. Do you know whether the claimant has given any mortgage on this land, or made any agreement to sell the same? (State your knowledge in this regard.)

Ans. _____.

Ques. 16. When did claimant first make settlement on the land, and what constituted his first act of settlement?

Ans. _____.

Ques. 17. What improvements does the claimant possess on the land, and what is the value of the same?

Ans. _____.

Ques. 18. When did claimant first establish a residence upon the land?

Ans. _____.

Ques. 19. Has claimant resided upon the land continuously ever since?

Ans. _____.

Ques. 20. For what purpose has the land been used by claimant?

Ans. _____.

Ques. 21. How much of the said land, if any, has been broken and cultivated since the claimant made settlement thereon?

Ans. _____.

Ques. 22. Is it your belief that _____ has acted in good faith in the settle-

ment and improvement of the said land under the pre-emption laws? Have you any knowledge to the contrary?

Ans. _____.

Ques. 23. Are you interested in this claim?

Ans. _____.

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer in the foregoing testimony was read to _____ before _____ signed _____ name thereto, and that the same was subscribed and sworn to before me this _____ day of _____, 18—.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

"TITLE LXX.—CRIMES.—CH. 4.

"SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed." [See sec. 1750]

[No. 4-007.]

HOMESTEAD.

APPLICATION No. _____.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, of _____, do hereby apply to enter, under section 2289 of the Revised Statutes of the United States, the _____ of section _____, in township _____, of range _____, containing _____ acres.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, register of the Land Office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under section 2289 of the Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

_____, Register.

[No. 4-063.]

HOMESTEAD.

AFFIDAVIT.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, of _____, having filed my application No. _____, for an entry under section 2289 of the Revised Statutes of the United States, do solemnly swear that [here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war; that said application, No. _____, is made for his or her exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever], and that I have not heretofore had the benefit of said section 2289.

Sworn to and subscribed this _____ day of _____, before

_____,
Register [or Receiver].

[No. 4-137.]

Receiver's receipt, No. —.

Application No. —.

HOMESTEAD.

RECEIVER'S OFFICE, —,
(Date) —, 18—.

Received from —, of — county, —, the sum of — dollars and — cents, being the amount of fee and compensation of register and receiver for the entry of — of section —, in township —, of range —, under section —, Revised Statutes of the United States.

—, Receiver.

§ —.

[No. 4-348.]

NOTICE OF INTENTION TO MAKE FINAL PROOF.

LAND OFFICE AT —,
(Date) —, 188—.

I, —, of —, who made homestead application No. — (or pre-emption declaratory statement No. —), for the —, do hereby give notice of my intention to make final proof to establish my claim to the land above described, and that I expect to prove my residence and cultivation before —, at —, on —, 188—, by two of the following witnesses:

—, of —.
—, of —.
—, of —.
—, of —.

(Signature of claimant.)

LAND OFFICE AT —,
(Date) —, 188—.

Notice of the above application will be published in the —, printed at —, which I hereby designate as the newspaper published nearest the land described in said application.

—, Register.

NOTICE TO CLAIMANT.—Give time and place of proving up, and name and title of the officer before whom proof is to be made; also, give names and post-office addresses of four neighbors, two of whom must appear as your witnesses.

[No. 4-347.]

NOTICE FOR PUBLICATION.

LAND OFFICE AT —,
—, 188—.

Notice is hereby given that — has filed notice of intention to make final proof before —, at —, on —, 188—, on homestead application No. — (or pre-emption declaratory statement No. —), for the —.

He names as witnesses —, of —, and —, of —.

—, Register.

NOTE.—This notice must also be posted in a conspicuous place in the Land Office for a period of thirty days prior to date of final proof.

[No. 4-347½.]

CONSOLIDATED NOTICE FOR PUBLICATION.

LAND OFFICE AT _____,
_____, 188—.

Notice is hereby given that the following named settlers have filed notice of intention to make final proof on their respective claims before _____, at _____, on _____, 188—, viz:

_____, on homestead application No. _____, for the _____.

Witnesses: _____, of _____, and _____, of _____.

_____, on pre-emption declaratory statement No. _____, for the _____.

Witnesses: _____, of _____, and _____, of _____.

_____, Register.

[No. 4-227.]

CERTIFICATE AS TO THE POSTING OF NOTICE.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, Register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of thirty days, I having first posted said notice on the _____ day of _____, 18—. _____, Register.

[No. 4-070.]

HOMESTEAD PROOF.

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS, SECTION 2291 OF THE REVISED STATUTES OF THE UNITED STATES.

I, _____, having made a homestead entry of the _____ section No. _____, in township No. _____, of range No. _____, subject to entry at _____, under section 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section 2291 of the Revised Statutes of the United States; and for that purpose do solemnly _____ that I am a citizen of the United States; that I have made actual settlement upon and have cultivated said land, having resided thereon since the _____ day of _____, 18—, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

I, _____, of the Land Office at _____, do hereby certify that the above affidavit was subscribed and sworn to before me this _____ day of _____, 18—. _____.

(This form will be used both in final homestead proof and commutation proof.)

HOMESTEAD PROOF.—TESTIMONY OF CLAIMANT.

_____, being called as a witness in _____ own behalf in support of _____ homestead entry for _____, testifies as follows:

Ques. 1. What is your name, written in full, and correctly spelled; your age, and post-office address?

Ans. _____.

Ques. 2. Are you a native of the United States, or have you been naturalized? (See note.)

Ans. _____.

Ques. 3. When was your house built on the land, and when did you establish actual residence thereon? (Describe said house and other improvements which you have placed on the land, giving total value thereof.)

Ans. _____.

Ques. 4. Of whom does your family consist, and have you and your family resided continuously on the land since first establishing residence thereon? (If unmarried, state the fact.)

Ans. _____.

Ques. 5. For what period or periods have you been absent from the homestead since making settlement, and for what purpose; and, if temporarily absent, did your family reside upon and cultivate the land during such absence?

Ans. _____.

Ques. 6. How much of the land have you cultivated, and for how many seasons have you raised crops thereon?

Ans. _____.

Ques. 7. Are there any indications of coal, salines, or minerals of any kind on the land? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. _____.

Ques. 8. Have you ever made any other homestead entry? (If so, describe the same.)

Ans. _____.

Ques. 9. Have you sold, conveyed, or mortgaged any portion of the land; and, if so, to whom, and for what purpose?

Ans. _____.

_____.

I hereby certify that the foregoing testimony was read to the claimant before being subscribed, and was sworn to before me this _____ day of _____, 18—.

_____,
_____.

NOTE.—If naturalized, the claimant must file a certified copy of his certificate of naturalization. In a commuted homestead a foreign-born claimant must file a certified copy of his declaration of intention. In making proof the party must surrender his original duplicate receipt or file affidavit of its loss.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

“TITLE LXX.—CRIMES.—CH. 4.

“SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed.” [See sec. 1750.]

[The testimony of two witnesses, in this form, taken separately, required in each case. This form will be used both in final homestead proof and commutation proof.]

HOMESTEAD PROOF.—TESTIMONY OF WITNESS.

_____, being called as a witness in support of the homestead entry of _____ for _____, testifies as follows:

Ques. 1. What is your occupation, and where is your residence?

Ans. _____.

Ques. 2. Have you been well acquainted with _____, the claimant in this case, ever since he made his homestead entry No. _____?

Ans. _____.

Ques. 3. Was claimant qualified to make said entry? (State whether the settler was a citizen of the United States; over the age of twenty-one years, or the head of a family, and whether he ever made a former homestead entry.)

Ans. _____.

Ques. 4. When did claimant settle upon the homestead, and at what date did he establish actual residence thereon? (Describe the dwelling and other improvements, giving total value thereof.)

Ans. _____.

Ques. 5. Have claimant and family resided continuously on the homestead since first establishing residence thereon? (If settler is unmarried, state the fact.)

Ans. _____.

Ques. 6. For what period or periods has the settler been absent from the land since making settlement, and for what purpose; and if temporarily absent, did claimant's family reside upon and cultivate the land during such absence?

Ans. _____.

Ques. 7. How much of the homestead has the settler cultivated, and for how many seasons did he raise crops thereon?

Ans. _____.

Ques. 8. Are there any indications of coal, salines, or minerals of any kind on the homestead? (If so describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)

Ans. _____.

Ques. 9. Has the claimant mortgaged, sold, or contracted to sell any portion of said homestead?

Ans. _____.

Ques. 10. Are you interested in this claim, and do you think the settler has acted in entire good faith in perfecting this entry?

Ans. _____.

_____.

I hereby certify that the witness is a person of respectability; that the foregoing testimony was read to him before being subscribed, and was sworn to before me this _____ day of _____ 18—.

_____,
_____.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

"TITLE LXX.—CRIMES.—CH. 4.

"SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed." [See sec. 1750.]

[No. 4-140.]

Receiver's Final Receipt, No. —.

Application No. —.

HOMESTEAD.

RECEIVER'S OFFICE —,
(Date) —, 18—.

Received from —, of — county, —, the sum of — dollars and — cents, being the balance of payment required by law for the entry of the — of section —, in township —, of range —, containing — acres, under section — of the Revised Statutes of the United States.

\$—.

—, Receiver.

[No. 4-196.]

Final Certificate No. —.

Application No. —.

HOMESTEAD.

LAND OFFICE AT —,
(Date) —, 18—.

It is hereby certified, pursuant to section 2291, Revised Statutes of the United States, that —, of — county, —, has made payment in full for — of section No. —, in township No. —, of range No. —, containing — acres.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said — shall be entitled to a patent for the tract of land above described.

—, Register.

[No. 4-069.]

[To be used in cases of commuted homestead entries. For taking the testimony of claimant and his witnesses in making commutation proof, use the prescribed forms for "Homestead Proof."]

COMMUTED HOMESTEAD AFFIDAVIT.

[Section 2301 of the Revised Statutes of the United States.]

I, —, claiming the right to commute, under section 2301 of the Revised Statutes of the United States, my homestead entry No. —, made upon the — section —, township —, range —, do solemnly swear that I made settlement upon said land on the — day of —, 18—, and that since such date, to wit: on the — day of —, 18—, I have built a house on said land, and have continued to reside therein up to the present time; that I have broken and cultivated — acres of said land, and that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler.

I further swear that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

LAND OFFICE, —.

Subscribed and sworn to before me this — day of —.

—, Register.

[No. 4-066.]

ADJOINING FARM HOMESTEAD.

AFFIDAVIT.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, of _____, having filed my application No. _____, for an entry under the provisions of the act of Congress approved May 20, 1862, entitled "An Act to secure homesteads to actual settlers on the public domain," do solemnly swear that _____ *[here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such, or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war]*; that said entry is made for my own exclusive benefit, and not directly or indirectly for the benefit or use of any other person or persons whomsoever; neither have I heretofore perfected or abandoned an entry made under this act; that the land embraced in said application No. _____ is intended for an adjoining farm homestead; that I now own and reside upon an original farm containing _____ acres, and no more; that the same comprises the _____ of section _____, township _____, range _____, and is contiguous to the tract this day applied for.

Sworn to and subscribed this _____ day of _____, before _____,
_____ of the Land Office.

[No. 4-067.]

FINAL AFFIDAVIT REQUIRED OF ADJOINING FARM HOMESTEAD CLAIMANTS.

[Section 2291, Revised Statutes.]

I, _____, having made a homestead entry of the _____ section No. _____, in township No. _____, of range No. _____, subject to entry at _____, for the use of an adjoining farm owned and occupied by me on the _____ of section No. _____, in township No. _____, of range No. _____, under section 2289 of the Revised Statutes, do now apply to perfect my claim thereto by virtue of section 2291 of the same, and for that purpose do solemnly _____ that I am a citizen of the United States; that I have continued to own and occupy the land constituting my original farm, having resided thereon since the _____ day of _____, 18—, to the present time, and have made use of the said entered tract as a part of my homestead, and have improved the same in the following manner, viz: _____. That no part of said land has been alienated, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry under the homestead laws.

I, _____, of the land office at _____, do hereby certify that the above affidavit was taken and subscribed before me this _____ day of _____, 18—.

[No. 4-071.]

[To be used in making final proof in cases where pre-emption filings have been changed to homestead entries under the acts of March 3, 1877, and May 27, 1878.]

PRE-EMPTION HOMESTEAD AFFIDAVIT.

I, _____, having changed my pre-emption declaratory statement No. _____, filed the _____ day _____, 18—, alleging settlement the _____ day of _____, 18—, for the _____ section No. _____, in township No. _____, of range No. _____, to homestead entry original No. _____, district of lands subject to entry at _____, under the acts of Congress approved March 3, 1877, and May 27, 1878, do solemnly swear that I have never had the benefit of any right of pre-emption under section 2259 of the Revised Statutes of

the United States; that I have not heretofore filed a pre-emption declaratory statement for another tract of land; that I was not the owner of three hundred and twenty acres of land in any State or Territory of the United States at any time during the above-mentioned period of settlement under the pre-emption statutes; that I did not remove from my own land within the State of — to make the settlement above referred to; nor have I settled upon and improved said land to sell the same on speculation, but in good faith to appropriate it to my exclusive use or benefit; and that I did not, during the period of pre-emption settlement above mentioned, directly or indirectly, make any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which I might acquire from the Government of the United States would inure, in whole or in part, to the benefit of any person except myself.

I, —, of the land office —, do hereby certify that the above affidavit was subscribed and sworn to before me this — day of —, 18—. —.

[No. 4-018.]

ADDITIONAL HOMESTEAD.—ACT OF MARCH 3, 1879.

Application }
No. —. }

LAND OFFICE AT —,
(Date) —, 18—.

I, —, of —, do hereby apply to enter, under the act of March 3, 1879, the — of section —, in township —, of range —, containing — acres, as additional to my entry No. —, for the — of —, section —, in township —, of range —.

LAND OFFICE AT —,
(Date) —, 18—.

I, —, register of the land office, do hereby certify that the above application is for surveyed lands of the class which the applicant is legally entitled to enter under the act of March 3, 1879, and that there is no prior valid adverse right to the same.

—, Register.

[No. 4-086.]

ADDITIONAL HOMESTEAD.—ACT OF MARCH 3, 1879.

AFFIDAVIT.

LAND OFFICE AT —,
(Date) —, 18—.

I, —, of —, having filed my application No. —, for an entry under the act of March 3, 1879, do solemnly swear that [*here state whether the applicant is the head of a family, or over twenty-one years of age; whether a citizen of the United States, or has filed his declaration of intention of becoming such; or, if under twenty-one years of age, that he has served not less than fourteen days in the Army or Navy of the United States during actual war*]; that said application No. — is made for my exclusive benefit; and that said entry is made for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever, and that I have not heretofore had the benefit of said act.

Sworn to and subscribed this — day of —, before

—,
Register [or Receiver].

[No. 4-273.]

SOLDIER'S HOMESTEAD.

(Section 2304 of the Revised Statutes of the United States.)

HOMESTEAD DECLARATION.

No. —.

LAND OFFICE AT —, 18—.
(Date) —, 18—.

I, —, do hereby declare and give notice that I claim for a homestead, under section 2304 of the Revised Statutes of the United States, granting homesteads to honorably-discharged soldiers and sailors, their widows and orphans, the — of section —, of township —, of range —, containing — acres; and I further declare that I take the said tract of land for actual settlement and cultivation and for my own use and benefit.

—,
Per —,
His Attorney in fact.

[No. 4-015.]

SOLDIER'S HOMESTEAD.

(Section 2304 of the Revised Statutes of the United States.)

APPLICATION.

LAND OFFICE AT —, 18—.
(Date) —, 18—.

I, —, hereby apply to enter, under section 2304 of the Revised Statutes of the United States, the — of section —, of township —, of range —, containing — acres; and for which I filed my declaration on the — day of —, through —, my duly-appointed agent.

I, —, register of the land-office at —, do hereby certify that — filed the above application at this office on the — day of —, and that he has taken the oath and paid the fees and commissions prescribed by law.

—, Register.

[No. 4-065.]

SOLDIER'S HOMESTEAD.

(Section 2304 of the Revised Statutes of the United States.)

AFFIDAVIT.

No. —.

LAND OFFICE AT —, 18—.
(Date) —, 18—.

I, —, of —, do solemnly swear that I am a —, of the age of twenty-one years and a citizen of the United States; that I served for ninety days in company —, — regiment, United States volunteers; that I was mustered into the United States military service the — day of —, and was honorably discharged therefrom on the — day of —; that I have since borne true allegiance to the Government; and that I have made my application, No. —, to enter a tract of land under section 2304 of the Revised Statutes of the United States, giving homesteads to honorably-discharged soldiers and sailors, their widows and orphan children; that I have made said application in good faith, and that I take said homestead for the purpose of actual settlement and cultivation, and for my own exclusive use and benefit, and for the use and benefit of no other person or persons whomsoever; and that I have not heretofore acquired a title to a tract of land under the homestead laws, or voluntarily relinquished or abandoned an entry heretofore made under said laws: so help me God.

Sworn to and subscribed before me, —, register of the Land Office at —, this — day of —, 18—.

—, Register.

[No. 4-003.]

**SOLDIERS' ADDITIONAL HOMESTEAD ENTRY UNDER SECTION 2306 OF THE
REVISED STATUTES OF THE UNITED STATES.**

APPLICATION.

No. —.

LAND OFFICE AT —, —,
(Date) —, 18—.

I, —, of — county, State of —, being entitled to the benefits of section 2306 of the Revised Statutes of the United States, granting additional lands to soldiers and sailors who served in the war of the rebellion, do hereby apply to enter the — of section —, of township —, of range —, containing — acres, as additional to my original homestead on the — of section —, of township —, of range —, containing — acres, which I entered —, 18—, per homestead No. —.

LAND OFFICE AT —, —,
(Date) —, 18—.

I, —, register of the Land Office at —, do hereby certify that — filed the above application before me for the tract of land therein described, and that he has paid the fee and commissions prescribed by law.

—, Register.

[No. 4-197.]

**SOLDIERS' ADDITIONAL HOMESTEAD ENTRY UNDER SECTION 2306 OF THE
REVISED STATUTES OF THE UNITED STATES.**

LAND OFFICE AT —, —,
(Date) —, 18—.

Final Certificate }
No. —. }

{ Application
No. —.

It is hereby certified that, pursuant to the provisions of section 2306 of the Revised Statutes of the United States, — has paid the fee and commissions, and made entry of the — of section —, of township —, of range —, containing — acres, which, added to the quantity embraced in his original homestead No. —, on which he made his final proof, as per certificate No. —, does not exceed 160 acres.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said — shall be entitled to a patent for the tract of land above described.

—, Register.

[No. 4-079.]

INDIAN HOMESTEAD UNDER ACT MARCH 3, 1875.

AFFIDAVIT.

I, —, of —, having filed my application No. — for an entry under the provisions of the act of Congress of March 3, 1875, do solemnly swear that I am an Indian, formerly of the — tribe; that I was born in the United States; that I have abandoned my relations with that tribe and adopted the habits and pursuits of civilized life [*here state whether the applicant is twenty-one years of age, or the head of a family*]; that I desire said land for the purpose of actual settlement and cultivation, and not, directly or indirectly, for the use or benefit of any other person or persons whomsoever; and that I have not heretofore had the benefit of said act.

Sworn and subscribed before me this — day of —, 18—.

—,
Register [or Receiver].

[No. 4-077.]

CORROBORATIVE AFFIDAVIT—INDIAN HOMESTEAD—UNDER ACT MARCH 3, 1875.

_____ and _____ do solemnly swear that we are well acquainted with _____, and know that he is an Indian, formerly of the _____ tribe; that he was born in the United States; that he has abandoned his relations with that tribe, and adopted the habits and pursuits of civilized life [*here state that he is twenty-one years of age, or, if not, that he is the head of a family*].

Sworn to and subscribed before me this _____ day of _____, 18—. _____

[No. 4-009.]

TIMBER-CULTURE—ACT OF JUNE 14, 1878.

Application No. _____

I, _____, hereby apply to enter, under the provisions of the act of June 14, 1878, entitled "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies,'" the _____ of section _____, in township _____, of range _____, containing _____ acres.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, register of the Land Office, do hereby certify that the above application is for the class of lands which the applicant is legally entitled to enter under the provisions of the timber-culture act of June 14, 1878; that there is no prior valid adverse right to the same, and that the land therein described, together with the lands heretofore entered under this act and the acts of which this is amendatory in the said section, does not exceed one-quarter thereof.

_____, Register.

[No. 4-073.]

TIMBER-CULTURE—ACT OF JUNE 14, 1878.

AFFIDAVIT.

LAND OFFICE AT _____,
(Date) _____, 18—.

I, _____, having filed my application No. _____, for an entry under the provisions of an act entitled "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies,'" approved June 14, 1878, do solemnly _____ that I am the head of a family [*or over twenty-one years of age*], and a citizen of the United States [*or have declared my intention to become such*]; that the section of land specified in my said application is composed exclusively of prairie lands, or other lands devoid of timber; that this filing and entry is made for the cultivation of timber, and for my own exclusive use and benefit; that I have made the said application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said act; and that I have not heretofore made an entry under this act, or the acts of which this is amendatory.

Sworn to and subscribed before me this _____ day of _____, 18—. _____

[No. 4-142.]

TIMBER-CULTURE.

Receiver's Receipt, }
No. —.{ Application,
No. —.RECEIVER'S OFFICE, —, —,
(Date) —, 18—.

Received of — the sum of — dollars — cents, being the amount of fee and compensation of register and receiver for the entry of — of section —, in township —, of range —, under the first section of the act of Congress approved June 14, 1878, entitled "An Act to amend an act entitled 'An Act to encourage the growth of timber on the Western Prairies,'"

\$ —. —, Receiver.

[No. 4-274.]

DESERT LAND—ACT OF MARCH 3, 1877.

DECLARATION.

No. —.

LAND OFFICE AT —, —,
(Date) —, 18—.

I, —, of — county, — of —, being duly sworn, depose and declare, that I am a citizen of the United States, of the age of —, and a resident of said county and —, and by occupation a —; that I intend to reclaim a tract of desert land, not exceeding one section, by conducting water upon the same, within three years from date, under the provisions of the act of Congress approved March 3, 1877, entitled "An Act to provide for the sale of desert lands in certain States and Territories." The desert land which I intend to reclaim does not exceed one section, and is situated in — county, in the — land district, and is described as follows, to wit: the — of section No. —, township No. —, range No. —, containing — acres. I further depose, that I have made no other declaration for desert lands under the provisions of said act; that the land above described will not, without irrigation, produce an agricultural crop; that there is no timber growing upon said land; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes, under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land; that I became acquainted with said land by —; and that my declaration therefor is not made for the purpose of fraudulently obtaining title to mineral land, timber land, or agricultural land, but for the purpose of faithfully reclaiming, within three years from the date hereof, by conducting water thereon, a tract of land which is desert land within the meaning of the act.

LAND OFFICE AT —, —,
(Date) —, 18—.

I hereby certify that the foregoing declaration was this day sworn to and subscribed before me.

—, Register.
—, Receiver.

[No. 4-074.]

DESERT LAND—ACT OF MARCH 3, 1877.

AFFIDAVIT.

No. —.

LAND OFFICE AT —, (Date) —, 18—.

I, —, of — county, —, being duly sworn, declare, upon oath, that I am a resident of said county and —; that I am of the age of —, and by occupation a —; that I am well acquainted with the character of each and every legal subdivision of the following-described land: the — section No. —, township No. —, range No. —, containing — acres; that I became acquainted with said land by —; that I have been acquainted with it for — years last past; that I have frequently passed over it; that my knowledge of said land is such as to enable me to testify understandingly concerning it; that the same is desert land within the meaning of the second section of the act of Congress approved March 3, 1877, entitled "An act to provide for the sale of desert lands in certain States and Territories"; that said land will not, without artificial irrigation, produce any agricultural crop; that no agricultural crop has ever been raised or cultivated on said land for the reason that it does not contain sufficient moisture for successful cultivation; that the same is essentially dry and arid land, wholly unfit for cultivation without artificial irrigation; that said land cannot be successfully cultivated without reclamation by conducting water thereon; that said land has hitherto been unappropriated, unoccupied, and unsettled, because it has been impossible to cultivate it successfully on account of its dry and arid condition; that it is a fact well known, patent, and notorious that the same will not, in its natural condition, produce any crop, that the land is the —; that there is no timber growing thereon, but that it is devoid of timber; that there is not, to my knowledge, within the limits thereof, any vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not, within the limits of said land, to my knowledge, any placer, cement, gravel, or other valuable mineral deposit or salines; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land; that I am not interested in any way or manner, directly or indirectly, present or prospective, in any application or declaration made or to be made for said land or in the land itself, or in the title which may by any person or in any manner be acquired thereto.

[No. 4-199.]

DESERT LAND CERTIFICATE.

No. —.

UNITED STATES LAND OFFICE, —, 18—.

It is hereby certified that under the provisions of the act of Congress approved March 3, 1877, entitled "An Act to provide for the sale of desert lands in certain States and Territories," — has this day filed in this office his declaration of intention to reclaim the following-described tract of land, viz: —; that he has proven to our satisfaction that the said tract of land is desert land as defined in the second section of said act, and that he has paid to the receiver the sum of — dollars, being at the rate of twenty-five cents per acre for the land above described.

It is, therefore, further certified, that if within three years from the date hereof the said —, his heirs or legal representatives, shall satisfactorily prove that the said land has been reclaimed by carrying water thereon, and shall pay to the receiver the additional sum of one dollar per acre for the land above described, he or they shall be entitled to receive a patent therefor under the provisions of the said act.

\$—.

—, Register.
—, Receiver.

NOTE.—The word "heirs" is substituted in this form for the word "assignee," the Secretary of the Interior having declined to recognize the assignment of desert land claims.

FINAL PROOF UNDER THE DESERT LAND ACT OF MARCH 3, 1877.

DEPOSITION OF APPLICANT.

Ques. 1. State your name, age, occupation, and residence.

Ans. _____.

Ques. 2. Are you a citizen of the United States, or, if not, have you declared your intention to become such? (If not native born, proof-record must be furnished.)

Ans. _____.

Ques. 3. If you have heretofore made a desert land entry, give the number and date thereof, and describe the land embraced therein.

Ans. _____.

Ques. 4. Have you conducted water upon the land embraced in said entry, and irrigated the same, and reclaimed it from its former desert character to such an extent that it will now produce an agricultural crop?

Ans. _____.

Ques. 5. What crops have you raised upon said land in each and every year since your first entry thereon under your declaration No. _____?

Ans. _____.

Ques. 6. How many acres have been sown or planted in each year, in what crops, and upon what portion or subdivision of the land, and what amount of such crops has been actually produced?

Ans. _____.

Ques. 7. What crops, if any, had been grown upon the land, or upon any portion thereof, and, if any, upon what portion, previous to your entry thereon?

Ans. _____.

Ques. 8. Would the land, or any portion of it, by cultivation without irrigation, have produced any agricultural crop whatever, and, if so, what crop?

Ans. _____.

Ques. 9. Was there any natural water supply upon such land sufficient to fertilize or irrigate the whole or any portion thereof, and, if so, what portion? State fully.

Ans. _____.

Ques. 10. Has the amount of water conveyed upon the land in any one season been sufficient to so irrigate the entire tract as to render the same productive, and, if so, what crop or crops would such irrigation produce?

Ans. _____.

Ques. 11. Has the whole tract been irrigated and cultivated by you in any one season?

Ans. _____.

Ques. 12. Has each smallest legal subdivision or portion of less than forty acres been irrigated or cultivated either during one season or different seasons since the date of your entry?

Ans. _____.

Ques. 13. How much water per acre has been conducted upon the land, or upon any portion under cultivation, in any one season; for how long a time was it so conducted upon the land, and at what times or seasons? State fully.

Ans. _____.

Ques. 14. In what manner was such water conveyed upon the land, whether by pipes or ditches, and how was it distributed over and through the soil? State particularly and in detail, and describe the ditches as to their width, depth, direction through or around the land, and give the length of each.

Ans. _____.

Ques. 15. Have you at this time the right and proprietorship of water sufficient and available to continue the irrigation of this tract and make perpetual reclamation of the land, and is it your purpose so to continue its use upon this land, and for the purposes of such reclamation?

Ans. _____.

Ques. 16. How was such right or proprietorship obtained, and by what tenure do you now hold the same? (Duly verified abstract of title must be furnished.)

Ans. _____.

Ques. 17. Have you the sole and entire interest in said entry, and in the tract covered thereby, and the water appropriated to irrigate the same?

Ans. _____.

Ques. 18. Has any other person, individual, or company of individuals any interest whatever in said entry, tract, or water appropriation? If so, give the name, residence, and occupation of each such person, and the nature, amount, and extent of such interest.

Ans. _____.

Ques. 19. Have you made or become the assignee of any other entry, or have you any interest, direct or indirect, in any other entry under the desert land act?

Ans. _____.

(Signature.) _____.

I HEREBY CERTIFY that each question and answer in the foregoing deposition was read to the applicant before _____ signed _____ name thereto, and that the same was subscribed and sworn to before me this _____ day of _____, 18—.

_____, Register.
_____, Receiver.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

“TITLE LXX.—CRIMES.—CH. 4.

“SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed.” [See sec. 1750.]

[No. 4- 73.]

[The deposition of two witnesses, in this form, taken separately, required in each case.]

FINAL PROOF UNDER THE DESERT LAND ACT OF MARCH 3, 1877.

DEPOSITION OF WITNESS.

Ques. 1. State your name, age, residence, and occupation.

Ans. _____.

Ques. 2. Are you acquainted with _____, who made desert land entry No. _____, on the _____ day of _____, A. D. 18—, upon the _____?

Ans. _____.

Ques. 3. How long have you known the party who made this entry?

Ans. _____.

Ques. 4. Have you personal knowledge of this land?

Ans. _____.

Ques. 5. Has water been conducted upon the land embraced in said entry so as to irrigate and reclaim the same from its former desert condition to such extent that the same will produce an agricultural crop?

Ans. _____.

Ques. 6. What crops have been raised upon said land in each and every year since its first entry by _____, under declaration No. _____, and by whom?

Ans. _____.

Ques. 7. How many acres have been sown or planted in each year, in what crops, and upon what portion or subdivision of the land, and what amount of crops have been produced thereon, and by whom?

Ans. _____.

Ques. 8. What crops, if any, had been grown upon the land, or upon any portion thereof, previous to the entry of _____ thereon?

Ans. _____.

Ques. 9. Would the land, or any portion of it, by cultivation without irrigation, have produced any agricultural crop whatever, and, if so, what crop?

Ans. _____.

Ques. 10. Was there any natural water supply upon such land sufficient to fertilize or irrigate the whole, or any portion thereof, and, if so, what portion? State fully.

Ans. _____.

Ques. 11. Has the amount of water conveyed upon said land by _____ in any one season been sufficient to so irrigate the entire tract as to render the same productive, and, if so, what crop or crops would such irrigation produce?

Ans. _____.

Ques. 12. Has the whole tract been irrigated and cultivated by ——— in any one season?

Ans. ———.

Ques. 13. Has each smallest legal subdivision or portion of less than forty acres been irrigated or cultivated either during one season or different seasons since the date of entry?

Ans. ———.

Ques. 14. How much water per acre has been conducted upon the land, or upon any portion under cultivation in any one season; for how long a time was it so conducted upon the land, and at what times or seasons? State fully.

Ans. ———.

Ques. 15. In what manner was such water conveyed upon the land, whether by pipes or ditches, and how was it distributed over and through the soil? State particularly and in detail, and describe the ditches as to their width, depth, direction through or around the tract, and give the length of each.

Ans. ———.

Ques. 16. Has ——— at this time the right and proprietorship of water sufficient and available to continue the irrigation of this tract and make perpetual reclamation of the land?

Ans. ———.

Ques. 17. How did you become acquainted with the facts relative to the irrigation of said land?

Ans. ———.

Ques. 18. Have you any interest, direct or indirect, in this entry, in the land covered thereby, or in the water supply used in its irrigation?

Ans. ———.

(Signature.) ———.

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer in the foregoing testimony was read to ——— before ——— signed ——— name thereto, and that the same was subscribed and sworn to before me this ——— day of ———, 18—.

————, Register.
————, Receiver.

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law

“TITLE LXX.—CRIMES.—CH. 4.

“SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed.” [See sec. 1750.]

[No. 4-143.]

DESERT LAND—ACT OF MARCH 3, 1877.

Receiver's Final Receipt, No. —.

Declaration No. —.

LAND OFFICE AT —,
(Date) —, 18—.

Received from ———, of ——— county, ———, the sum of ——— dollars and ——— cents, being final payment of one dollar per acre for the ——— containing ——— acres, at one dollar and twenty-five cents per acre, the sum of twenty-five cents per acre having been heretofore paid, as per original receipt No. —.

————, Receiver.

\$—.

[No. 4-200.]

DESERT LAND—ACT OF MARCH 3, 1877.

Register's Final Certificate No. —.

Declaration No. —.
LAND OFFICE AT —,
(Date) —, 18—.

IT IS HEREBY CERTIFIED that, in pursuance of the act of Congress approved March 3, 1877, entitled "An Act to provide for the sale of desert lands in certain States and Territories," —, of — county, State or Territory of —, has purchased of the register of this office, and made payment in full for the land described as follows, to wit: —, containing — acres, at the rate of one dollar and twenty-five cents per acre, amounting to — dollars.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said — shall be entitled to receive a patent for the tract of land above described.

—, Register.

[NOTE.—See original declaration and receipt, No. —.]

[No. 4-537.]

TIMBER AND STONE LANDS—ACT OF JUNE 3, 1878.

SWORN STATEMENT.

LAND OFFICE AT —,
(Date) —, 18—.

I, —, of — county, —, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An Act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the — of section —, township —, of range —, do solemnly — that I* —; that the said land is unfit for cultivation, and valuable chiefly for its —; that it is uninhabited; that it contains no mining or other improvements —; nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

Sworn to and subscribed before me this — day of —, 18—.

[No. 4-371.]

(The testimony of two witnesses, in this form, taken separately, required in each case.)

TIMBER AND STONE LANDS—ACT OF JUNE 3, 1878.

TESTIMONY OF WITNESS.

—, being called as a witness in support of the application of — to purchase the — of section —, township —, of range —, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. —.

Ques. 2. What is your occupation?

Ans. —.

* In case the party has been naturalized, or has declared his intention to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of its smallest legal subdivisions?

Ans. _____.

Ques. 4. When and in what manner was such inspection made?

Ans. _____.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. _____.

Ques. 6. Is it fit for cultivation?

Ans. _____.

Ques. 7. What causes render it unfit for cultivation?

Ans. _____.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. _____.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. _____.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. _____.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. _____.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. _____.

_____.

I HEREBY CERTIFY that witness is a person of respectability; that each question and answer the foregoing testimony was read to — before — signed — name thereto, and that the same was subscribed and sworn to before me this — day of —, 18—.

_____,
_____.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

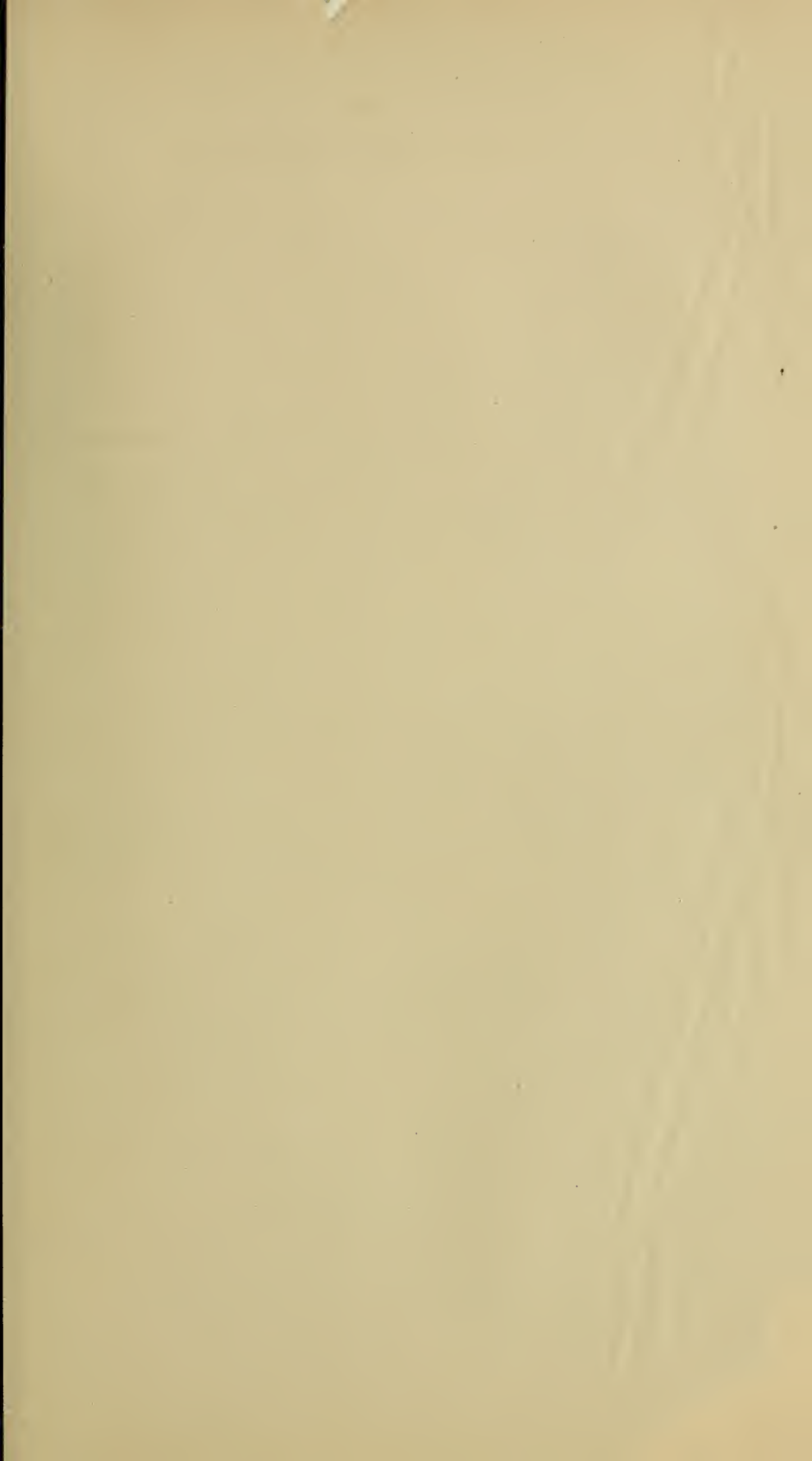
“TITLE LXX.—CRIMES.—CH. 4.

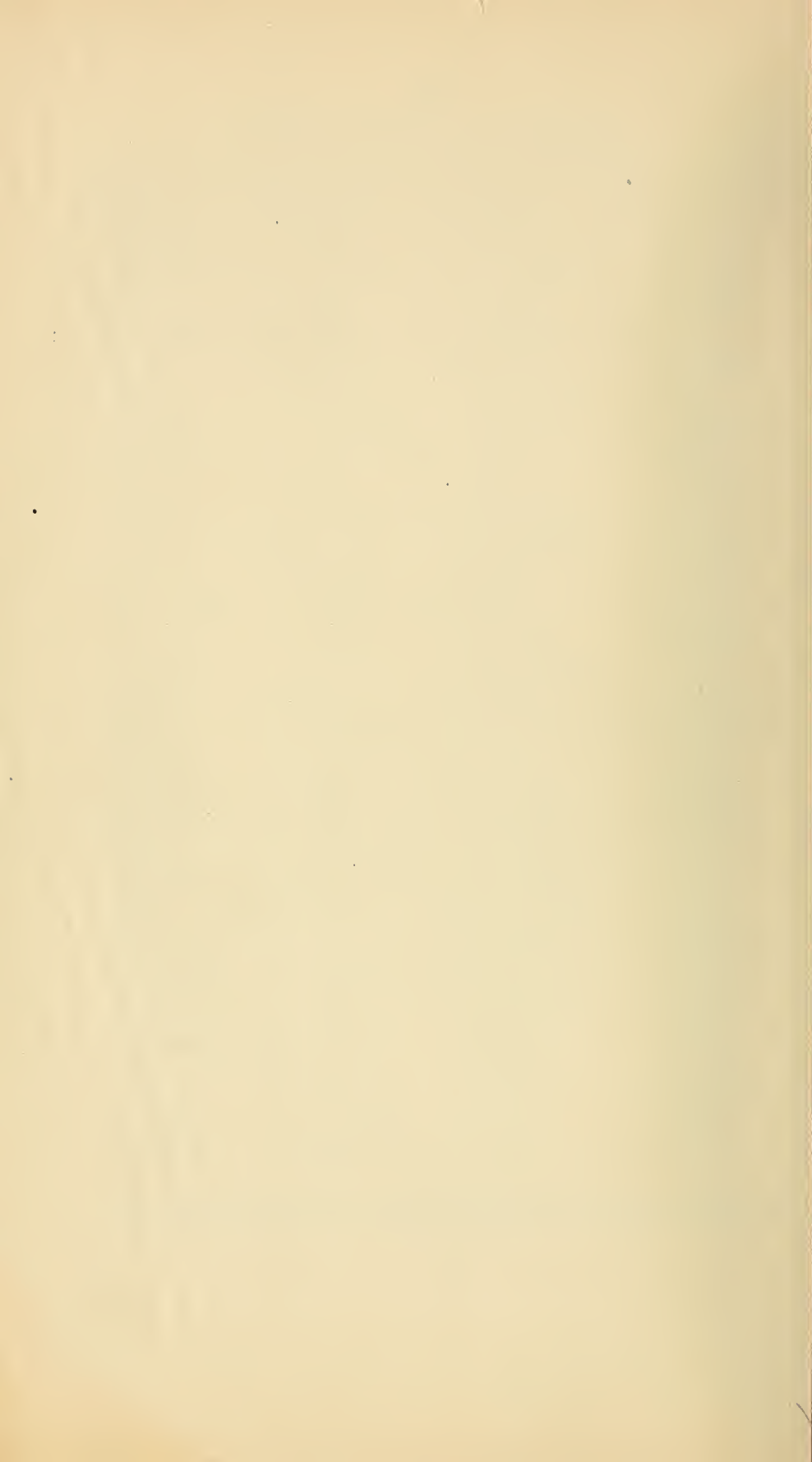
“SEC 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter, be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed.” [See sec. 1750.]

UNITED STATES LAND OFFICES.

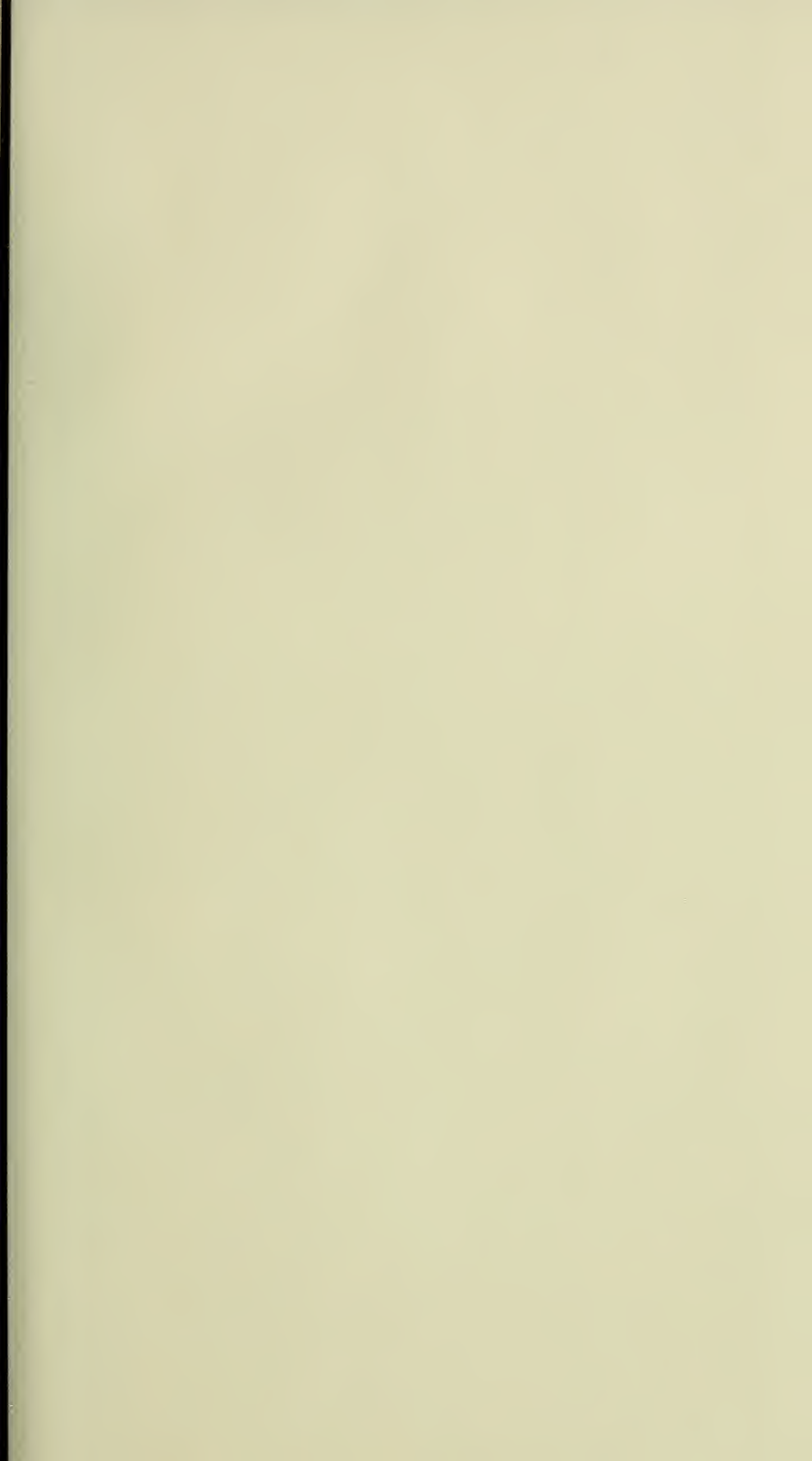
ALABAMA.	DAKOTA TER.	MICHIGAN.	NEBRASKA—Cont'd.
Huntsville.	Mitchell.	Detroit.	Niobrara.
Montgomery.	Watertown.	East Saginaw.	Grand Island.
ARKANSAS.	Fargo.	Reed City.	North Platte.
Little Rock.	Yankton.	Marquette.	Bloomington.
Camden.	Bismarck.	MINNESOTA.	NEVADA.
Harrison.	Deadwood.	Taylor's Falls.	Carson City.
Dardanelle.	Grand Forks.	Saint Cloud.	Eureka.
ARIZONA TER.	FLORIDA.	Du Luth.	NEW MEXICO TER.
Prescott.	Gainesville.	Fergus Falls.	Santa Fé.
Florence.	IDAHO TER.	Worthington.	La Mesilla.
CALIFORNIA.	Boisé City.	Tracy.	OREGON.
San Francisco.	Lewiston.	Benson.	Oregon City.
Marysville.	Oxford.	Crookston.	Roseburg.
Humboldt.	IOWA.	Redwood Falls.	Le Grand.
Stockton.	Des Moines.	MISSISSIPPI.	Lakeview.
Visalia.	KANSAS.	Jackson.	The Dalles.
Sacramento.	Topeka.	MISSOURI.	UTAH TER.
Los Angeles.	Salina.	Boonville.	Salt Lake City.
Shasta.	Independence.	Ironton.	WASHINGTON TER.
Susanville.	Wichita.	Springfield.	Olympia.
Bodie.	Kirwin.	MONTANA TER.	Vancouver.
COLORADO.	Concordia.	Miles City.	Walla Walla.
Denver City.	Larned.	Helena.	Colfax.
Leadville.	Wa-Keeny.	Bozeman.	Yakima.
Central City.	LOUISIANA.	NEBRASKA.	WISCONSIN.
Pueblo.	New Orleans.	Norfolk.	Menasha.
Del Norte.	Natchitoches.	Beatrice.	Falls of St. Croix.
Lake City.		Lincoln.	Wausau.
			La Crosse.
			Bayfield.
			Eau Claire.
			WYOMING TER.
			Cheyenne.
			Evanston.

NOTE.—By act of July 31, 1876, the land-offices in Ohio, Indiana, and Illinois were abolished; and by act of March 3, 1877, the vacant tracts of public land in Ohio, Indiana, and Illinois are made subject to entry and location at the General Land Office, Washington, D. C. (See Regulations, on page 24.)

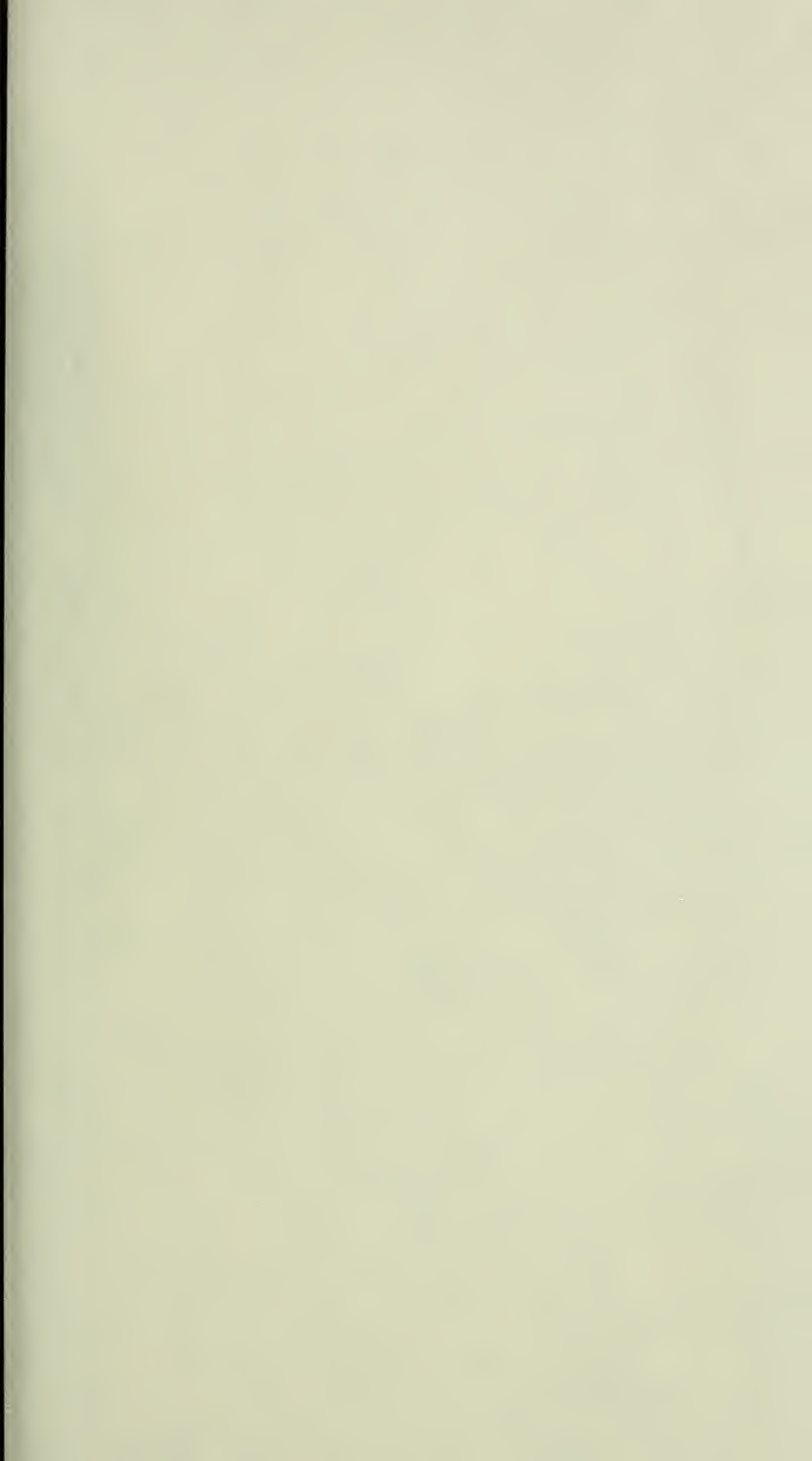




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